



COUNCIL CHAMBERS

17555 PEAK AVENUE MORGAN HILL CALIFORNIA 95037

COUNCIL MEMBERS	REDEVELOPMENT AGENCY
Dennis Kennedy, Mayor	Dennis Kennedy, Chair
Mark Grzan, Mayor Pro Tempore	Mark Grzan, Vice-Chair
Larry Carr, Council Member	Larry Carr, Agency Member
Greg Sellers, Council Member	Greg Sellers, Agency Member
Steve Tate, Council Member	Steve Tate, Agency Member

WEDNESDAY, FEBRUARY 1, 2006

AGENDA

JOINT MEETING

CITY COUNCIL REGULAR MEETING

and

REDEVELOPMENT AGENCY SPECIAL MEETING

7:00 P.M.

A Special Meeting of the Redevelopment Agency is Called at 7:00 P.M. for the Purpose of Conducting Redevelopment Agency Business.

Dennis Kennedy, Mayor/Chairman

CALL TO ORDER

(Mayor/Chairperson Kennedy)

ROLL CALL ATTENDANCE

(City Clerk/Agency Secretary Torrez)

DECLARATION OF POSTING OF AGENDA

Per Government Code 54954.2

(City Clerk/Agency Secretary Torrez)

7:00 P.M.

SILENT INVOCATION

PLEDGE OF ALLEGIANCE

INTRODUCTIONS

Eric Marlatt, Senior Planner
Steve Golden, Associate Planner
Heather Phillips, Assistant Planner
Heidi Crouch, Office Assistant II
John Amos, Code Enforcement Officer
Director of Community Development Molloy-Previsich

Officer Sara Alanis
Officer Joe Burdick
Officer Jeff Brandon
Officer Jason Broyer
Officer Joshua Norris
Public Safety Dispatcher Idalia Echegoyen
Public Safety Dispatcher Lynette Madruga
Police Records Specialist Alison Comerford
Cadet Ryan Halla
Police Chief Cumming

CITY COUNCIL REPORT

Council Member Tate

CITY COUNCIL SUB-COMMITTEE REPORTS

CITY MANAGER'S REPORT

CITY ATTORNEY'S REPORT

OTHER REPORTS

PUBLIC COMMENT

NOW IS THE TIME FOR COMMENTS FROM THE PUBLIC REGARDING ITEMS NOT ON THIS AGENDA.

(See notice attached to the end of this agenda.)

**PUBLIC COMMENTS ON ITEMS APPEARING ON THIS AGENDA WILL BE TAKEN AT THE TIME
THE ITEM IS ADDRESSED BY THE COUNCIL. PLEASE COMPLETE A SPEAKER CARD AND
PRESENT IT TO THE CITY CLERK.**

(See notice attached to the end of this agenda.)

**PLEASE SUBMIT WRITTEN CORRESPONDENCE TO THE CITY CLERK/AGENCY SECRETARY. THE
CITY CLERK/AGENCY SECRETARY WILL FORWARD CORRESPONDENCE TO THE CITY
COUNCIL/REDEVELOPMENT AGENCY.**

City Council Action

CONSENT CALENDAR:

ITEMS 1-8

The Consent Calendar may be acted upon with one motion, a second and the vote, by each respective Agency. The Consent Calendar items are of a routine or generally uncontested nature and may be acted upon with one motion. Pursuant to Section 5.1 of the City Council Rules of Conduct, any member of the Council or public may request to have an item pulled from the Consent Calendar to be acted upon individually.

Time Estimate

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Consent Calendar: 1 - 10 Minutes

1. **AWARD OF PROFESSIONAL SERVICES CONTRACT FOR A "TRAILS AND NATURAL RESOURCES STUDY"**8
Recommended Action(s): Authorize the City Manager to Execute a Consultant Agreement with Royston Hanamoto Alley & Abey for Preparation of a Trails and Natural Resources Study which Shall Serve as the City's Trails Master Plan, Subject to Review and Approval by the City Attorney.
2. **AMENDMENT TO THE FINAL CONTRACT AMOUNT FOR CONSTRUCTION OF JACKSON OAKS BOOSTER STATION REHABILITATION PROJECT**9
Recommended Action(s): Approve an Addition to the Final Contract Amount for the Jackson Oaks Booster Station Rehabilitation Project in the Amount of \$12,120, for a Total Contract Amount of \$1,101,791.
3. **FINAL MAP APPROVAL FOR COYOTE ESTATES PHASE XI (TRACT 9735)**10
Recommended Action(s):
 1. **Approve** the Final Map, Subdivision Agreement and Improvement Plans;
 2. **Authorize** the City Manager to Sign the Subdivision Improvement Agreement on Behalf of the City; and
 3. **Authorize** the Recordation of the Map and the Subdivision Improvement Agreement Following Recordation of the Development Improvement Agreement.
4. **FOURTH AMENDMENT TO AGREEMENT WITH THE LAW FIRM OF HATCH & PARENT**11
Recommended Action(s): Authorize the City Manager to Execute a Fourth Amendment to Agreement with the Law Firm of Hatch & Parent.
5. **FIFTH AMENDMENT TO AGREEMENT WITH THE STROMBOTNE LAW FIRM**12
Recommended Action(s): Authorize the City Manager to Execute a Fifth Amendment to Agreement with the Strombotne Law Firm.
6. **DOWNTOWN COMMUNITY SPECIAL EVENTS RULES**13
Recommended Action(s): Approve Rules as Stipulated, and Include as Part of the Special Event Request Form Process.
7. **ADOPT ORDINANCE NO. 1751, NEW SERIES**14
Recommended Action(s): Waive the Reading, and **Adopt** Ordinance No. 1751, New Series, and **Declare** That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL ADDING CHAPTER 18.73 (WATER CONSERVING LANDSCAPES) OF TITLE 18 (ZONING) OF THE MUNICIPAL CODE OF THE CITY OF MORGAN HILL REGARDING THE ESTABLISHMENT OF LANDSCAPE REGULATIONS PROMOTING THE EFFICIENT USE OF WATER.**

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Consent Calendar: 1 - 10 Minutes	

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| 8. | <u>APPROVE MINUTES FOR THE REGULAR CITY COUNCIL MEETING OF JANUARY 18, 2006</u> | 25 |
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Redevelopment Agency Action

CONSENT CALENDAR:

ITEMS 9-10

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| 9. | <u>SECOND QUARTER REPORT FROM THE CHAMBER OF COMMERCE ECONOMIC DEVELOPMENT PARTNERSHIP</u>39
<u>Recommended Action(s):</u> <u>Accept</u> the Report. | 39 |
| 10. | <u>REDEVELOPMENT PLAN AMENDMENT CONSULTANT</u>40
<u>Recommended Action(s):</u> <u>Authorize</u> the Executive Director to Execute a Contract with GRC Redevelopment Consultants, Inc. in an Amount Not to Exceed \$225,800 to Perform all Work Necessary to Prepare the Second Amendment to the Redevelopment Plan for the Ojo de Agua Community Development Project Area; Subject to Review and Approval by Agency Counsel. | 40 |

Redevelopment Agency Action (Continued)

CONSENT CALENDAR:

ITEM 11

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Consent Calendar: 1 - 10 Minutes	

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| 11. | <u>SKEELS BUILDING AND CREST AVENUE APARTMENTS LOANS</u>41
<u>Recommended Action(s):</u> <ol style="list-style-type: none"> 1. <u>Authorize</u> Staff to Prepare a New Loan Agreement with South County Housing (SCH) for the Skeels Building to: <ol style="list-style-type: none"> a) Provide a 20-year Term [through December 2025] b) Require SCH to make a One-Time Payment of \$50,000 Against the Existing Loan Prior to Executing the new Loan c) Have the new Agency Loan Require Fixed Annual Payments of \$3,000 d) Authorize the Subordination of the new Agency Loan to a new Conventional Loan; 2. <u>Authorize</u> the Subordination of the Agency's Existing Loans with SCH for the Crest Avenue Apartments (Crest) to the New First Mortgage; and 3. <u>Authorize</u> the Executive Director to do Everything Necessary to Prepare, Negotiate and Execute Loan Documents, Subject to City Attorney Review and Approval. | 41 |
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City Council Action

PUBLIC HEARINGS:

	Time Estimate		Page
12.	20 Minutes	<u>ZONING AMENDMENT, ZA-05-16/ DEVELOPMENT AGREEMENT, DA-05-07: WRIGHT-MANANA</u>	42
		Public Hearing Opened.	
		Please Limit Your Remarks to 3 Minutes. Public Hearing Closed	
		Council Discussion.	
		Action- <u>Approve</u> the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program.	
		Action- <u>Motion to Waive</u> the Reading in Full of Zoning Amendment Ordinance.	
		Action- <u>Motion to Introduce</u> Ordinance by Title Only. (Roll Call Vote)	
		Action- <u>Motion to Waive</u> the Reading in Full of Development Agreement Ordinance.	
		Action- <u>Motion to Introduce</u> Ordinance by Title Only. (Roll Call Vote)	
13.	5 Minutes	<u>DEVELOPMENT AGREEMENT AMENDMENT DAA-04-09: EAST DUNNE-DELCO</u>	47
		Public Hearing Opened.	
		Please Limit Your Remarks to 3 Minutes. Public Hearing Closed	
		Council Discussion.	
		Action- <u>Motion to Waive</u> the Reading in Full of Ordinance.	
		Action- <u>Motion to Introduce</u> Ordinance by Title Only. (Roll Call Vote)	
14.	10 Minutes	<u>ZONING AMENDMENT, ZA-05-07/ DEVELOPMENT AGREEMENT, DA-05-05: CENTRAL-DELCO</u>	51
		Public Hearing Opened.	
		Please Limit Your Remarks to 3 Minutes. Public Hearing Closed	
		Council Discussion.	
		Action- <u>Approve</u> the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program.	
		Action- <u>Motion to Waive</u> the Reading in Full of Zoning Amendment Ordinance.	
		Action- <u>Motion to Introduce</u> Ordinance by Title Only. (Roll Call Vote)	
		Action- <u>Motion to Waive</u> the Reading in Full of Development Agreement Ordinance.	
		Action- <u>Motion to Introduce</u> Ordinance by Title Only. (Roll Call Vote)	
15.	45 Minutes	<u>APPEAL OF RESIDENTIAL DEVELOPMENT CONTROL SYSTEM (RDCE) PROJECT EVALUATION FOR APPLICATION MC-05-10: EAST FIRST-SHIRAZ, FILED BY SHERMAN HOUSE ASSOCIATES</u>	56
		Public Hearing Opened.	
		Please Limit Your Remarks to 3 Minutes. Public Hearing Closed	
		Council Discussion.	
		Action- <u>Conduct</u> Appeal.	
		Action- <u>Adopt</u> Resolution Affirming/Modifying the Planning Commission Evaluation.	

City Council Action

OTHER BUSINESS:

	Time Estimate		Page
16.	10 Minutes	<u>MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY AND AMERICAN ANCHORPOINT ACADEMIES, OAK MEADOW PLAZA, ET AL REGARDING JOINT SUBMITTAL OF AN APPLICATION THAT WOULD RESULT IN IMPLEMENTATION OF URBAN LIMIT LINE/GREENBELT STUDY RECOMMENDATIONS FOR DEWITT/EDMUNDSON AREA</u>63 <u>Recommended Action(s):</u> Direct the Mayor to Execute the Memorandum of Understanding on Behalf of the City Council.	
17.	10 Minutes	<u>DRAFT BALLOT LANGUAGE FOR A JUNE 6, 2006 SPECIAL ELECTION</u>72 <u>Recommended Action(s):</u> Review Draft Ballot Measure Relating to the Removal of the "Grocery Supermarket" Restriction from the Cochrane Plaza Shopping Center.	
18.	5 Minutes	<u>LEASE WITH CROWN CASTLE, INTERNATIONAL FOR CELLULAR INSTALLATIONS AT NOB HILL WATER TANK SITE</u>76 <u>Recommended Action(s):</u> Authorize the City Manager to the Execute Lease Agreement with Crown Castle, International for Existing and Future Cellular Installations on the Nob Hill Water Tank Site.	
19.	10 Minutes	<u>CONSIDERATION OF COUNCIL'S 2006 POLICIES AND GOALS</u>103 <u>Recommended Action(s):</u> 1. Review the Draft Policies and Goals; and 2. Adopt or Revise as Appropriate.	
20.	5 Minutes	<u>RECRUITMENT EFFORTS TO FILL UPCOMING VACANCIES TO BOARDS AND COMMISSIONS</u>107 <u>Recommended Action(s):</u> 1. Establish February 2006 as Recruitment, and March 2006 to Interview/Appoint to Fill Vacancies on the Library, Culture & Arts Commission and Parks & Recreation Commission; 2. Establish April 2006 as Recruitment, and May 2006 to Interview/Appoint to Fill Vacancies on the Architectural & Site Review Board (ARB), Mobile Home Rent Stabilization Commission, and the Senior Advisory Commission; and 3. Direct Staff Regarding any Questions the Council would Like Added to the Applications.	

FUTURE COUNCIL-INITIATED AGENDA ITEMS:

Note: in accordance with Government Code Section 54954.2(a), there shall be no discussion, debate and/or action taken on any request other than providing direction to staff to place the matter of business on a future agenda.

PUBLIC COMMENTS ON ITEMS NOT APPEARING ON AGENDA

Following the opening of Council/Agency business, the public may present comments on items *NOT* appearing on the agenda that are within the Council's/Agency's jurisdiction. Should your comments require Council/Agency action, your request will be placed on the next appropriate agenda. No Council/Agency discussion or action may be taken until your item appears on a future agenda. You may contact the City Clerk/Agency Secretary for specific time and dates. This procedure is in compliance with the California Public Meeting Law (Brown Act) G.C. 54950.5. Please limit your presentation to three (3) minutes.

PUBLIC COMMENTS ON ITEMS APPEARING ON AGENDA

The Morgan Hill City Council/Redevelopment Agency welcomes comments from all individuals on any agenda item being considered by the City Council/Redevelopment Agency. Please complete a Speaker Card and present it to the City Clerk/Agency Secretary. This will assist the Council/Agency Members in hearing your comments at the appropriate time. Speaker cards are available on the table in the foyer of the Council Chambers. In accordance with Government Code 54953.3 it is not a requirement to fill out a speaker card in order to speak to the Council/Agency. However, it is very helpful to the Council/Agency if speaker cards are submitted. As your name is called by the Mayor/Chairman, please walk to the podium and speak directly into the microphone. Clearly state your name and address and then proceed to comment on the agenda item. In the interest of brevity and timeliness and to ensure the participation of all those desiring an opportunity to speak, comments presented to the City Council/Agency Commission are limited to three minutes. We appreciate your cooperation.

NOTICE

AMERICANS WITH DISABILITIES ACT (ADA)

The City of Morgan Hill complies with the Americans with Disability Act (ADA) and will provide reasonable accommodation to individuals with disabilities to ensure equal access to all facilities, programs and services offered by the City. If you need special assistance to access the meeting room or to otherwise participate at this meeting, including auxiliary aids or services, please contact the Office of the City Clerk/Agency Secretary at City Hall, 17555 Peak Avenue or call 779-7259 or (Hearing Impaired only - TDD 776-7381) to request accommodation. Please make your request at least 48 hours prior to the meeting to enable staff to implement reasonable arrangements to assure accessibility to the meeting.

If assistance is needed regarding any item appearing on the City Council/Agency Commission agenda, please contact the Office of the City Clerk/Agency Secretary at City Hall, 17555 Peak Avenue or call 779-7259 or (Hearing Impaired only - TDD 776-7381) to request accommodation.

NOTICE

Notice is given, pursuant to Government Code Section 65009, that any challenge of Public Hearing Agenda items in court, may be limited to raising only those issues raised by you or on your behalf at the Public Hearing described in this notice, or in written correspondence delivered to the City Council/Agency Commission at, or prior to the Public Hearing on these matters.

NOTICE

The time within which judicial review must be sought of the action by the City Council/Agency Commission which acted upon any matter appearing on this agenda is governed by the provisions of Section 1094.6 of the California Code of Civil Procedure.



CITY COUNCIL STAFF REPORT

MEETING DATE: FEBRUARY 1, 2006

AWARD OF PROFESSIONAL SERVICES CONTRACT FOR A "TRAILS AND NATURAL RESOURCES STUDY"

RECOMMENDED ACTION(S): Authorize the City Manager to execute a consultant agreement for preparation of a Trails and Natural Resources Study which shall serve as the City's Trails Master Plan with Royston Hanamoto Alley & Abey, subject to approval by the City Attorney.

Agenda Item # 1

Prepared By:

Associate Engineer

Approved By:

Public Works Director

Submitted By:

City Manager

EXECUTIVE SUMMARY: The current year Capital Improvement Program promotes the development of a Trails Master Plan that will provide a comprehensive study of needed trails adjacent to creeks and streams within the urban city limits which will provide efficient bicycle/pedestrian circulation and connectivity to schools and parks as well as recreational opportunities for the community.

The scope of work for this study consists of reviewing existing trails and reports, site visits, staff meetings, provide preliminary trail alignments, verify environmental constraints, community meeting, revisions, draft and final Trails and Natural Resources Study which shall serve as the City's Trails Master Plan. The Parks and Recreation Commission (PRC) and the Bicycle and Trails Advisory Committee (BTAC) have both approved the scope of work. The PRC and BTAC will review and provide input on the Draft Study.

Staff recommends hiring a qualified Landscape Architect firm for the planning and development of this study. Staff requested proposals from five qualified landscape architect firms interested in performing this work. After reviewing the proposals, staff selected Royston Hanamoto Alley & Abey (RHAA), to perform this work.

The attached \$32,873 proposal from RHAA outlines their scope of services and timeline for this work in detail. RHAA will perform most of the work with H.T. Harvey & Associates providing review pertaining to natural resources. RHAA has successfully performed similar work for the City and their outside experience and expertise in trail master planning will be invaluable for this study. Staff recommends approval of the attached proposal. Staff estimates that the study will be complete in May 2006.

FISCAL/RESOURCE IMPACT: The total cost for the Royston Hanamoto Alley & Abey contract is \$32,873. TDA Article 3 Funds of \$32,000 have been approved by the Metropolitan Transportation Commission (MTC) for this project. Council appropriated a match of \$4,000 from the un-appropriated Street Fund Balance on July 27, 2005 and no additional funding is needed at this time. The funds will be budgeted under CIP project # 127005.



CITY COUNCIL STAFF REPORT

MEETING DATE: FEBRUARY 1, 2006

AMENDMENT TO THE FINAL CONTRACT AMOUNT FOR CONSTRUCTION OF JACKSON OAKS BOOSTER STATION REHABILITATION PROJECT

RECOMMENDED ACTION(S): Approve an addition to the final contract amount for the Jackson Oaks Booster Station Rehabilitation project in the amount of \$12,120 for a total contract amount of \$1,101,791.

EXECUTIVE SUMMARY: The construction contract for the Jackson Oaks Booster Station Rehabilitation project was awarded to Trinet Construction Inc. by City Council at the October 27, 2004 meeting in the amount of \$1,026,025, plus a 10% contingency of \$102,602 for the total of \$1,128,627.

This project included the construction of a new booster station building including all new pumps, motors, motor controls and approximately 3000 lineal feet of new 12-inch water pipeline replacing an existing 8-inch pipeline. The project was completed by December 2005 and accepted by the City Council on January 11, 2006 in the amount of \$1,089,671.

Just prior to completion of the project, Trinet's project manager left the company. Subsequently Staff met with Trinet to review the change orders and quantities to determine the final contract amount, it was with personnel who had limited experience with the final quantities of the project. A maintenance bond for the agreed final contract amount was received and Staff proceeded with the acceptance of the project by the City Council.

Trinet's management personnel has since notified Staff that certain measured final quantities had been under-reported. Upon notification, Public Works staff checked the quantities and confirmed that there was a discrepancy in the quantities and that Trinet had not been fully compensated for the quantities they had installed.

The additional compensation of \$12,120 will bring the project total to \$1,101,791, which is within the approved project budget. No additional appropriation is required.

FISCAL/RESOURCE IMPACT: None, sufficient funds exist in the current year CIP budget for this project.

Agenda Item # 2

Prepared By:

Senior Civil Engineer

Approved By:

Public Works Director

Submitted By:

City Manager



CITY COUNCIL STAFF REPORT

MEETING DATE: FEBRUARY 1, 2006

FINAL MAP APPROVAL FOR COYOTE ESTATES PHASE XI (TRACT 9735)

RECOMMENDED ACTION(S):

1. Approve the final map, subdivision agreement and improvement plans.
2. Authorize the City Manager to sign the Subdivision Improvement Agreement on behalf of the City.
3. Authorize the recordation of the map and the Subdivision Improvement Agreement following recordation of the Development Improvement Agreement.

EXECUTIVE SUMMARY:

Tract 9735 is a 20 lot subdivision north of Cochrane Road and west of Peet Road within the Coyote Estates development (see attached location map). The developer has completed all the conditions specified by the Planning Commission in the approval of the Tentative Map on May 25, 2004.

The developer has furnished the City with the necessary documents to complete the processing of the Final Map and has made provisions with a Title Company to provide the City with the required fees, insurance and bonds prior to recordation of the Final Map.

FISCAL/RESOURCE IMPACT:

Development review for this project is from development processing fees.

Agenda Item #3

Prepared By:

Assistant Engineer

Approved By:

Public Works Director

Submitted By:

City Manager



CITY COUNCIL STAFF REPORT

MEETING DATE: February 1, 2006

Agenda Item #4

Submitted By:

City Manager

FOURTH AMENDMENT TO AGREEMENT WITH THE LAW FIRM OF HATCH & PARENT

RECOMMENDED ACTIONS:

Authorize the City Manager to execute a Fourth Amendment to Agreement with the law firm of Hatch & Parent.

EXECUTIVE SUMMARY:

On May 21, 2002, the City contracted with the law firm of Hatch & Parent to provide the City with legal services in connection with the perchlorate land and water contamination. On September 15, 2004, Council approved a contract with Hatch & Parent in the amount of \$100,000. Pursuant to Council approval on March 16, 2005, the contract was increased by \$150,000 to \$250,000. Council approved an additional increase to \$325,000 on October 19, 2005. As this matter is ongoing, staff is recommending that Council approve the attached Fourth Amendment to Agreement to increase the amount by an additional \$100,000 to \$425,000 to cover Hatch & Parent's continuing representation of the City's interests, as well as ongoing work by experts on this matter, through June 30, 2006.

FISCAL IMPACT

There are sufficient funds available in the Water Operations fund (650.5710.42230) to cover the requested contract amendment.



CITY COUNCIL STAFF REPORT

MEETING DATE: February 1, 2006

FIFTH AMENDMENT TO AGREEMENT WITH THE STROMBOTNE LAW FIRM

RECOMMENDED ACTIONS:

Authorize the City Manager to execute a Fifth Amendment to Agreement with the Strombotne Law Firm.

EXECUTIVE SUMMARY:

On June 7, 2004, the City contracted with the Strombotne Law Firm to represent the City's interest in a construction dispute with Stevelle Construction Company, Inc., involving the new Morgan Hill Police Facility. In the interim, nine subcontractors filed suit against the City for enforcement of Stop Notices. The parties were unsuccessful in their attempt to reach a negotiated settlement.

The matter is currently scheduled for a two week trial in the Santa Clara County Superior Court commencing on April 10, 2006. The current contract in the amount of \$145,000 is insufficient to cover the fees and costs associated with pretrial preparation, discovery and trial.

The attached Fifth Amendment to Agreement is in the amount of \$230,000. It is anticipated that the additional \$85,000 will be sufficient to cover the anticipated pretrial and trial fees and costs. Therefore, staff is recommending that Council approve the attached Fifth Amendment to Agreement increasing the contract amount to \$230,000.

FISCAL IMPACT:

The cost of this amended agreement will be accommodated in the City Attorney's Office budget as part of a comprehensive set of mid-year adjustments.

Agenda Item # 5

Prepared By:

(Title)

Submitted By:

City Manager



CITY COUNCIL STAFF REPORT

MEETING DATE: *February 1, 2006*

DOWNTOWN COMMUNITY SPECIAL EVENTS RULES

RECOMMENDED ACTION(S):

Approve rules as stipulated and include as part of the special event request form process.

EXECUTIVE SUMMARY:

Council approved a series of rules for holding special events downtown at their December 14, 2005 meeting. The permit sheet has been revised to reflect these rules and staff will incorporate as part of the special event permit process.

Staff continued the discussion with the Downtown Association as there was still some concern over the "three hour prior to event" limit to closing downtown for IDI. IDI representatives met with the Downtown Association and a compromise was reached whereas the proposed rule now reads "*Day of event closures (i.e. evening event) shall not be closed earlier than three hours before the published start of the event. Events that run consecutively for 100 years or longer will be "grandfathered in" and may continue to close at their customary street closing time.*"

There are several suggestions not included in the rules that generated some discussion. Staff suggested a \$500 dollar cleaning deposit with the Downtown events to help ensure street cleaning but would require a new step in authorizing someone to "sign-off" on each event the day clean-up is completed. The Downtown and Chamber representatives do not believe this is needed at this time.

There was also discussion about the possibility of limiting the number of events held downtown. Staff is recommending that the suggested rules be applied first and monitored to determine if a limit needs to be proposed. A limit to the number of events downtown would require policy action and a process established to determine how events are approved annually in an open process. This would not guarantee that the existing events would have priority to newly proposed events.

The community groups requesting special event co-sponsorship or subsidized funding will be provided the special event permit request form and the new Downtown Event rule sheet and will be required to submit the completed forms by March 31, 2006 in order to be considered for city sponsorship for FY 06-07 per Council direction on December 14, 2005. The budget for these expenses comes from the General Fund which has been increasingly limited over the past few years and FY05-06 resulted in no funding set aside to support organizer requests.

FISCAL IMPACT: According to the budget document, Community Promotions funding in the amount of \$25,000 is dedicated to the Centennial Activity programming. On October 2005 Council appropriated an additional \$1,065 from the unallocated general fund for the Holiday Light Parade.

Agenda Item # 6

Prepared By:

Special Assistant to the
City Manager

Submitted By:

City Manager



CITY COUNCIL STAFF REPORT

MEETING DATE: February 1, 2006

Agenda Item #7

Prepared By:

Deputy City Clerk

Approved By:

City Clerk

Submitted By:

City Manager

ADOPT ORDINANCE NO. 1751, NEW SERIES

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL ADDING CHAPTER 18.73 (WATER CONSERVING LANDSCAPES) OF TITLE 18 (ZONING) OF THE MUNICIPAL CODE OF THE CITY OF MORGAN HILL REGARDING THE ESTABLISHMENT OF LANDSCAPE REGULATIONS PROMOTING THE EFFICIENT USE OF WATER

RECOMMENDED ACTION(S):

Waive the Reading, and **Adopt** Ordinance No. 1751, New Series, and **Declare** That Said Title, Which Appears on the Public Agenda, Shall Be Determined to Have Been Read by Title and Further Reading Waived.

EXECUTIVE SUMMARY:

On January 18, 2006, the City Council Introduced Ordinance No. 1751, New Series, by the Following Roll Call Vote: AYES: Carr, Grzan, Kennedy, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: None.

FISCAL IMPACT:

Preparing this ordinance and supporting its implementation are an anticipated and included activity in the work program of the Public Works Department.

ORDINANCE NO. 1751, NEW SERIES

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL ADDING CHAPTER 18.73 (WATER CONSERVING LANDSCAPES) OF TITLE 18 (ZONING) OF THE MUNICIPAL CODE OF THE CITY OF MORGAN HILL REGARDING THE ESTABLISHMENT OF LANDSCAPE REGULATIONS PROMOTING THE EFFICIENT USE OF WATER

WHEREAS, the City of Morgan Hill recognizes that there is a limited supply of water available to serve the residents and businesses of Morgan Hill; and,

WHEREAS, the City of Morgan Hill wishes to encourage the efficient use of water in order to optimize the use of the limited supply; and,

WHEREAS, the demand for water increases with additional development; and,

WHEREAS, landscapes provide recreation areas, clean the air and water, prevent erosion, offer fire protection, and replace ecosystems displaced by development; and,

WHEREAS, landscape design, installation, and maintenance can and should be water efficient; and,

NOW THEREFORE, IN CONSIDERATION OF THE FOREGOING, THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY ORDAIN AND ENACT AS FOLLOWS:

Section 1. Chapter 18.73 (Water Conserving Landscapes) is hereby added to Title 18 (Zoning) of the Municipal Code of the City of Morgan Hill to read as follows:

18.73.010 PURPOSE

The purposes of this chapter are to promote efficient water use, to manage peak season water demand, and to preserve water storage in order to ensure a reliable and adequate public water supply by regulating landscape design, construction, and maintenance. It is also the purpose of this chapter to comply with Government Code section 65591, et seq., the Water Conservation in Landscaping Act.

18.73.020 DEFINITIONS

For the purpose of this chapter, the following words shall have the meanings set forth below:

- A. "Applicant" means any individual, person, firm, entity or agency applying for a new water service connection or for a change to an existing service connection.
- B. "Common area" means those areas in a residential development maintained by either the developer or a homeowner's association.
- C. "Community garden" means a plot of land used by a community group for the cultivation of flowers, vegetables, or fruit.
- D. "Director" means the Director of the Community Development Department of the City of Morgan Hill, or the Director's authorized representative.
- E. "Increase in service" means an additional water meter or larger capacity meter is required to serve the proposed development, as determined by the Director.
- F. "Hydrozone" means a distinct grouping of plants with similar water needs and climatic requirements.
- G. "Landscape water budget" means, for design purposes, the upper limit of annual applied water for the established landscape. It is based on the region's reference evapotranspiration, type of plant material, and landscape area.
- H. "Modified service" means a substantial change in the water use characteristics of an existing service connection (for example, converting from a single family residential service to multiple residential service, or from a residential use to a commercial use).
- I. "Reference evapotranspiration" or "ET_o" means a standard measurement of environmental parameters which affect the water use of plants.
- J. "Relandscaping" means any project that is required to modify the existing landscape as a condition of a land use approval, site review, or a discretionary permit.
- K. "Runoff" means irrigation water that is not absorbed by the soil or landscape area to which it is applied and flows onto other areas.
- L. "Total Landscaped Area" means the total outdoor area of a parcel upon which plants, pools, water features, and hardscapes not intended for the use of vehicles are placed.
- M. "Turf" means any hybridized grasses that, when regularly mowed, form a low, dense growth of leaf blades and roots which require frequent watering during the growing season.
- N. "WUCOLS" means Water Use Classification of Landscape Species, a guide published by University of California Cooperative Extension.

18.73.030 APPLICABILITY

A. New, Increased, or Modified Development. The Director shall be responsible for assuring that all new development within the City shall comply with the standards set forth in this chapter as a condition of receiving a land use approval, except as indicated below.

B. Transfer of Ownership. A transfer of ownership in itself shall not necessitate any change to be in compliance with this Ordinance.

C. Relandscaping. Existing water customers that are required to relandscape or modify their landscapes as part of a land use approval process shall also be required to comply with the standards in the relandscaped area. Land use approval applications that do not result in a requirement to relandscape or modify a landscape shall not be required to comply with the standards of this Ordinance.

D. Single-Family and Two-Unit Residences. New single-family and two-unit residential customers shall be required to meet only the provisions regarding turf limits listed in subsection (d) of Section 6 if the landscaping is not being designed and installed by a developer as a component of a new development. The entire Ordinance applies to landscapes in new single-family and two-unit residential developments at which the landscaping is being installed by a developer as a component of the development.

E. Common Areas. Common areas of all new residential development shall be required to comply with the standards set forth below.

F. Recreation Areas. Schoolyards, parks, playgrounds, sports fields, and golf courses are exempt from the turf area limit set forth in subsection (d)(1) of Section 6. Every other standard listed in the Ordinance is applicable to schoolyards, parks, playgrounds, sports fields, and golf courses.

G. Exemptions. The standards do not apply to community gardens; ecological restoration projects that do not require a permanent irrigation system; registered historical sites where landscaping establishes an historical landscape style, as determined by a public board or commission responsible for architectural review or historic preservation; and enclosed, private yards and patios in multi-family residential developments. The standards do not apply to all development that has either been constructed or has submitted an application for a building permit before the effective date of this Ordinance.

18.73.040 LANDSCAPE PLAN REVIEW AND APPROVAL REQUIRED

A complete landscape plan must be submitted and found to satisfy the requirements of this chapter before a building permit can be issued. Landscape plans submitted as part of a building plan application through the building department will be routed to the Planning Division in accordance with procedures established by the Chief Building Official for review. The

landscape plan shall include a statement signed by a licensed landscape architect certifying that the plan is in compliance with the requirements of this chapter.

18.73.050 CONTENTS OF PLANS

Landscape plans shall consist of separate planting, irrigation, and landscape grading plans, all drawn at the same size and scale, and shall accurately and clearly include the following information:

A. Planting Plan. Planting plans shall identify and locate the following:

- (1) New and existing trees, shrubs, ground covers, and turf areas within the developed landscape area;
- (2) Planting legend indicating all plant species by botanical name and common name, spacing, and quantities of each type of plant by container size;
- (3) Designation of hydrozones;
- (4) Area, in square feet, devoted to landscaping and a breakdown of the total area by landscape hydrozones;
- (5) Property lines, streets, and street names;
- (6) Building locations, driveways, sidewalks, retaining walls, and other hardscape features;
- (7) Appropriate scale and north arrow;
- (8) Planting specifications and details.

B. Irrigation Plan. Irrigation plans shall identify and locate the following:

- (1) Irrigation point of connection (POC) to water system;
- (2) Static water pressure at POC;
- (3) Location and size of water meter(s);
- (4) Backflow prevention devices as may be required under Section 16.04.420 of the municipal code;
- (5) Location, size, and type of all components of the irrigation system, including automatic controllers, main and lateral lines, valves, sprinkler heads and nozzles, pressure regulator, drip and low volume irrigation equipment;

(6) Total flow rate (gallons per minute), and design operating pressure (psi) for each overhead spray and bubbler circuit; and total flow rate (gallons per hour) and design operating pressure (psi) for each drip and low volume irrigation circuit;

(7) Precipitation rate (inches per hour) for each overhead spray circuit;

(8) Irrigation legend with the manufacturer name, model number, and general description for all specified equipment, separate symbols for all irrigation equipment with different spray patterns, spray radius, and precipitation rate;

(9) Irrigation system details for assembly and installation;

(10) Recommended irrigation schedule for each month, including number of irrigation days per week, number of start times (cycles) per day, minutes of run time per cycle, and estimated amount of applied irrigation water, expressed in gallons per month and gallons per year, for the established landscape;

(11) Calculation of landscape water budget.

C. Grading Plan. (Note: Not required when landscaped slopes on the site are less than 10%.)

(1) Finish grades, contours, and spot elevations;

(2) Elevations of building floors, parking lots, and streets;

(3) Location and height of retaining walls;

(4) Drainage patterns and drainage control facilities.

18.73.060 LANDSCAPE WATER CONSERVATION STANDARDS

A. Dedicated Landscape Water Meter.

(1) Separate City water service meters shall be required for all new landscaping, other than single family and two-unit residential customers, and for renovated landscape sites that result in expansion of the total landscaped area by more than 500 square feet. This meter shall be designated as an irrigation account.

B. Landscape Water Budget.

(1) The landscape water budget for new landscapes shall be based on 70 percent of reference evapotranspiration per square foot of landscaped area assuming a minimum irrigation efficiency of 70%.

(2) The estimated annual water use, calculated by adding the amount of water recommended in the irrigation schedule, or by another method approved by the Director, shall not exceed the annual landscape water budget.

C. Landscape Design.

(1) High water use plants, decorative pools, fountains, and water features shall be limited to not more than 10 percent of the total landscaped area. Water in decorative pools and fountains must be recirculated.

(2) All other plantings in nonturf areas shall be composed of low to moderate water use plants, as identified in *Water Use Classification of Landscape Species* (WUCOLS Guide) or East Bay MUD's *Plants and Landscapes for Summer-Dry Climates of the San Francisco Bay Region* or other species, including native plants, that are well adapted to the climate of the region and require minimal water once established.

(3) Plants having similar water requirements shall be grouped together in distinct hydrozones.

(4) Planting of trees, shade trees, and the protection and preservation of existing native species and natural areas is encouraged.

D. Turf Limits.

(1) The turf area shall be limited to not more than 25 percent of the total developed landscape area if an overhead spray sprinkler system is used. If subsurface irrigation is used exclusively to irrigate the turf area, the turf area shall be limited to not more than 50 percent of the total landscaped area. The limit does not apply to sites requiring large turf areas for their primary function as a recreation surface and there are no design alternatives, such as schoolyards, parks, and ball fields. For single-family homes and two-unit residences with landscaped areas smaller than 2,000 square feet, a total of 500 square feet of turf area shall be allowed providing the turf area complies with Sections 6(d)(2) and 6 (d)(3),.

(2) Turf shall not be placed in areas less than 8 feet wide or on slopes greater than 10 percent.

(3) Turf varieties shall be water-conserving species, such as tall and hard fescues.

E. Irrigation Design.

(1) All irrigation systems shall be designed to avoid runoff, over-spray, low-head drainage and other similar conditions where water flows off-site on to adjacent property, non-irrigated area, walks, roadways, or structures.

(2) Overhead sprinkler irrigation systems are prohibited in median strips, parking islands, parkway strips and similar narrow areas measuring less than five feet wide from curb to curb. Drip or low volume irrigation equipment may be required in certain other cases (i.e., sloping sites) where it is determined by the Director that overhead spray irrigation would result in waste of water due to excessive runoff from the site.

(3) Overhead sprinkler irrigation systems shall be separated from adjacent sidewalks, driveways, or other paved surfaces, wherever feasible, by a mulched border at least two feet in width consisting of shrubs, groundcover, or other landscape treatment that is not spray irrigated.

(4) Plants that require different amounts of water shall be irrigated by separate irrigation circuits and valves.

F. Irrigation Equipment.

(1) A pressure regulator shall be installed.

(2) All irrigation systems shall be equipped with a controller that includes dual or multiple programming capability, multiple start times, and a percent switch. Controllers that direct irrigation in relationship with CIMIS ETo data are specifically qualified to meet this provision.

(3) Sprinkler heads shall have matched precipitation rates within each control circuit valve and shall be selected for proper coverage and application rate, thereby minimizing over spray and runoff.

(4) Irrigation systems shall be equipped with rain sensing devices to prevent irrigation during rainy weather.

(5) Anti-drain check valves shall be installed at strategic points to minimize or prevent low-head drainage.

(6) All irrigation equipment installed shall meet the Plumbing Code adopted by the City when the application is submitted.

G. Soil Preparation and Mulching.

(1) Soil shall be prepared for planting by ripping and incorporating an organic amendment at the rate of six cubic yards per 1,000 square feet into the top six inches, or amended with organic material as recommended by landscape architect or soil laboratory report.

(2) All exposed surfaces of nonturf areas within the developed landscape area must be mulched with a minimum three-inch layer of organic material, except in areas of groundcover planted from flats, mulch depth shall be 1½ inches.

18.73.070 INSPECTIONS AND CERTIFICATIONS

The Director shall have the right to enter upon any premises to make an inspection at any time before, during, and after irrigation system and landscape installation for the purpose of enforcing this chapter.

A. Certification of Completion before Occupancy. A licensed landscape architect or licensed contractor, certified irrigation designer, or other licensed or certified professional in a related field shall conduct a final field observation and shall provide a certificate of substantial completion to the City before a Certificate of Occupancy is issued. The certificate shall specifically indicate that plants were installed as specified, that the irrigation system was installed as designed, and that an irrigation audit has been performed, along with a list of any observed deficiencies. Certification shall be accomplished by completing and delivering a Certificate of Substantial Completion in a form acceptable to the City.

B. Final Inspection Before Occupancy. The Director may make a final inspection after completion of work to determine if the landscape improvements were completed in accordance with approved plans and with this chapter, and to require corrective measures if the requirements of this chapter are not satisfied. If corrective measures are necessary, the Certificate of Occupancy will not be issued until corrective measures are complete.

18.73.080 IRRIGATION SYSTEM MANAGEMENT AND MAINTENANCE

A. Maintenance. Landscape shall be maintained in good working condition and properly adjusted to ensure water efficiency. Any broken or malfunctioning equipment, including but not limited to main and lateral lines or control valves shall be repaired promptly with identical equipment to maintain the original design integrity.

B. Irrigation System Inspections. Irrigation system shall be inspected regularly to correct misaligned, clogged or broken heads, missing heads and risers, stuck valves, and leaks. The irrigation meter shall be read periodically to check consumption and detect any leakage.

C. Watering Schedule. Watering schedules shall be adjusted periodically to reflect seasonal variations in plant water requirements. Whenever possible, irrigation management shall incorporate the use of real-time, ET0 data from the California Irrigation Management Information System (CIMIS) or similar weather-based irrigation scheduling system.

D. Irrigation Operation. Irrigation shall be scheduled between the hours of 10:00 p.m. and 10:00 .am. when daily temperature and wind conditions are at a minimum.

18.73.090 WATER USE MONITORING

The City may monitor water use at each site with a dedicated irrigation meter for comparison with the landscape water budget on an annual basis. Water use will be based on utility records of the irrigation meter.

18.73.100 ALTERNATIVE APPROACHES

The purpose of this Ordinance is to make optimum use of the water resources available to the City water department service area and to manage peak season water demands. As technology

changes and more information is available regarding plant materials, irrigation equipment and techniques, and maintenance techniques that enhance water conservation, the Director may allow the substitution of well-designed conservation alternatives or innovations which equally reduce water consumption and meet the intent of this chapter.

18.73.110 PENALTIES

Any individual, person, firm, or agency violating any provisions of this chapter shall be subject to the penalties provided in Chapter 1.24, General Penalty.

18.73.120 LIMIT OF CITY RESPONSIBILITY

The City of Morgan Hill has limited water resources that are vulnerable to shortage in drought conditions. Residential, commercial and irrigation accounts in the water department service area are therefore subject to water restrictions or mandatory rationing during a declared drought emergency. Compliance with this chapter does not guarantee the survival of landscape plants or the availability of water for landscape irrigation based on this chapter. Irrigation shall be scheduled according to any emergency water use ordinance in effect.

Section 2. Severability. Should any provision of this Ordinance be deemed unconstitutional or unenforceable by a court of competent jurisdiction, such provision shall be severed from the Ordinance, and such severance shall not affect the remainder of the Ordinance.

Section 3. Effective Date; Posting. This Ordinance shall take effect thirty (30) days after its second reading. This Ordinance shall be posted at City Hall.

The foregoing ordinance was introduced at the regular meeting of the City Council of the City of Morgan Hill held on the 18th Day of January 2006, and was finally adopted at a regular meeting of said Council on the Day of February 2006, and said ordinance was duly passed and adopted in accordance with law by the following vote:

AYES: **COUNCIL MEMBERS:**
NOES: **COUNCIL MEMBERS:**
ABSTAIN: **COUNCIL MEMBERS:**
ABSENT: **COUNCIL MEMBERS:**

ATTEST:

APPROVED:

Irma Torrez, City Clerk

Dennis Kennedy, Mayor

∞ CERTIFICATE OF THE CITY CLERK ∞

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Ordinance No. 1751, New Series, adopted by the City Council of the City of Morgan Hill, California at their regular meeting held on the Day of February 2006.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk

**CITY OF MORGAN HILL
REGULAR CITY COUNCIL MEETING
MINUTES – JANUARY 18, 2006**

CALL TO ORDER

Mayor Kennedy called the special meeting to order at 7:00 p.m.

ROLL CALL ATTENDANCE

Present: Council Members Carr, Grzan, Sellers, Tate and Mayor Kennedy

DECLARATION OF POSTING OF AGENDA

The meeting's agenda was duly noticed and posted in accordance with Government Code 54954.2.

SILENT INVOCATION

PLEDGE OF ALLEGIANCE

PROCLAMATIONS

Mayor Kennedy presented Mona Helmhold, Red Cross Donor Recruitment Representative, with a proclamation for National Volunteer Blood Donor Month.

Ms. Helmhold indicated that organizations in Morgan Hill hosted 11 blood drives in 2005; donating 320 pints of blood. These 320 units of blood saved approximately 1,000 lives. She announced that the next blood drive will be held on Monday, February 6 from 1:30 p.m. – 6:30 p.m. at the Church of the Rock. It is her hope that 500 units of blood can be collected in Morgan Hill in 2006.

CITY COUNCIL REPORT

Mayor Kennedy reported the following:

Coyote Valley

He has been heading up the Stakeholders Committee on Coyote Valley, presenting the City's positions jointly with the Morgan Hill Unified School District (MHUSD) and Gavilan College to the City of San Jose. The Committee has met with San Jose's Mayor Ron Gonzales, Council Member Forrest Williams and their staff on numerous occasions; as well as attending the task force committee meetings and presenting perspectives for South County residents.

Mayor Kennedy indicated that Steve Kinsella, President of Gavilan College; City Manager Tewes; Alan Nishino, Superintendent of the MHUSD; and Mike Hickey, president of the MHUSD Board of Trustees; and he met recently with San Jose Mayor Gonzales and Council Member Williams. He indicated that the new representative from the City of San Jose, Council Member Nancy Pyle, who is replacing Mayor Gonzales on the Task Force, sent her chief of staff to attend the meeting as she was unable to attend the meeting. He stated that Council Member Pyle will be invited to meet with Council Member Sellers and

he in Morgan Hill to further convey areas of concern and interest that Morgan Hill has with VTA as well as Coyote Valley. It was his belief that progress has been made with respect to Coyote Valley. He said that San Jose has agreed to allow Morgan Hill's Planning Staff and the City's traffic consultants to meet with their traffic consultants as they prepare the traffic study portion of the environmental impact report. He said that this is an area of vital importance to Morgan Hill and South County. He indicated that Dr. Kinsella presented Gavilan College's issues as did Superintendent Alan Oshino and School Board President Hickey.

Caltrain Service/Greenbelt

He indicated that there has been discussion about increased Caltrain service. One area with shared common interest is related to reverse commute. He stated that Coyote Valley will need a Caltrain station. In order to make this work, consistent with San Jose's belief that 80% of the residents will commute south to Coyote Valley, there is a shared common goal of ensuring that reverse commute Caltrain service is provided. He indicated that there were other issues discussed such as housing. He said that the City of San Jose is proposing to develop Coyote Valley over a phased plan. He stated that triggers are still in place; requiring jobs to be built first; even though there is a lot of discussion taking place about changing the triggers. There was also discussion about the greenbelt. He said that the Coyote Valley greenbelt is considered to be part of Morgan Hill's greenbelt and that the greenbelt is to be shared between the two cities. He said that the urban limit line established a greenbelt around the entire city. He said that there will be general plan revisions to incorporate Morgan Hill's greenbelt. He stated that it is important that the City of San Jose enforces the planned Coyote Valley Greenbelt to be consistent with Morgan Hill's greenbelt.

Santa Clara Valley Transportation Authority (VTA)

He serves as the interim member of the Board of Directors of the Santa Clara Valley Transportation Authority (VTA). With respect to VTA activities, he indicated that a series of meetings have been held. The most recent meeting held was the VTA Policy Advisory Committee to which he attended. He indicated that Council Member Sellers is the City's representative to the Committee. However, he was unable to attend the meeting due to a schedule conflict. He stated that the City Council will be holding its goal setting retreat this Friday and Saturday; indicating that the Council will be receiving a presentation from VTA staff on the transportation and transit capital improvement program that includes a proposed quarter cent sales tax. He said that the recent information from VTA and the general manager is that the most recent sales tax studies indicate that there are sufficient funds projected to come in to cover all proposed projects. Even projects placed out into the future were moved up into the current completion plan. He expressed concern whether these numbers were valid. However, the Council will be receiving a presentation from VTA staff and will have this discussion. Next week, the MGM Group 4 of the VTA which consists of Morgan Hill, Gilroy and Milpitas will hold a meeting in Morgan Hill to talk about a joint position for the VTA Board of Director's meeting to be held on February 2, 2006 when the VTA Board will take action on the proposed transit capital improvement program. He said that the Council will have the opportunity to discuss the quarter cent sales tax at the January 25, 2006 Council meeting and that the Council's decision will be forwarded to the VTA Board.

CITY COUNCIL SUBCOMMITTEE REPORTS

Council Member Sellers indicated that he is chair to the Community & Economic Development Committee. He reported that last Friday, a special workshop was held to discuss a downtown ballot

measure. Discussed was whether or not the City should consider placing a ballot measure on the June 2006 ballot that would focus on downtown housing and whether or not housing in the downtown should be exempt from Measure C. He said that there was fruitful discussion and that the staff report brought to light the fact that such a ballot measure may trigger an environmental review process that will make it difficult, if not impossible, to look at a June 2006 ballot measure. Being discussed is whether such a ballot measure should proceed in November 2006. He reported to the Council that it appears that at this point, for a variety of reasons, not the least is the timing and the need to undertake additional environmental review; the Committee has determined that it will not recommend the City proceed with a ballot measure in June 2006.

Council Member Carr stated that the Public Safety & Community Services Committee held a special meeting last week and held its regular meeting this evening to discuss some of the larger topics that will be agendaized for the Council's retreat; including the outdoor sports complex, the indoor recreation center and a potential partnership with the YMCA, and other items the Committee expects will be discussed at the retreat.

CITY MANAGER REPORT

City Manager Tewes reported that the City is engaging in a unique and extensive new process of civic engagement called the "Community Conversation." He said that this process will engage citizens and business people in the community to talk with each other about the kind of city services that should be pursued, at what levels, and how these services are to be paid for. He said the City is receiving good responses from individuals and groups who are scheduling Community Conversations. He said that there are still plenty of opportunities and that everyone will be invited to participate. No one wishing to participate will be turned away. He indicated that in the next week or two, citizens will receive a direct mail piece; the first of a series of mailers to every household in the community. The mailers will explain the process; identify what individuals have talked about, thus far, and how individuals can engage in the Community Conversations. If individuals are interested in the Community Conversation, he recommended that they contact City Hall

City Manager Tewes indicated that in the next couple of weeks, the Council will be considering adopting its goals for 2006. He stated that on Wednesday, February 8, 2006 at 7:00 p.m., Mayor Kennedy will be providing the annual State of the City presentation based on the goals. He announced the State of the City address will be held at the Community & Cultural Center and that everyone in the community is invited.

CITY ATTORNEY REPORT

Interim City Attorney Siegel stated that he did not have a report to present this evening.

PUBLIC COMMENT

Mayor Kennedy opened the floor to public comments for items not appearing on this evening's agenda.

Dan Ehrler indicated that the Council should have received communication from the Morgan Hill Chamber of Commerce Board of Directors addressing two specific issues: 1) the outdoor sports

complex; and 2) downtown development. He informed the Council that the Board of Directors received input from three committees; in particular the Visitor Advisory Committee relative to the outdoor sports complex; the soccer fields being a major focus. The Economic Development Attraction and Retention Committee also reviewed this issue. He said that both committees went through a process that resulted on the recommendation of approval of the information sent to the Council. He said that the information has been forwarded to time it with the Council's upcoming goal setting session to be held this weekend in the hope that the Board of Director's recommendations will be taken into consideration and used as part of the Council's discussion. He wanted to make clear that relative to the second item, downtown development, discussions were in conjunction with the Downtown Association. He stated that the Chamber of Commerce realizes that there are many challenges. He read from a paragraph of the recommendation forwarded to the Council relative to the series of challenges inherent in the recommended policies that need to be addressed, explored and solved. However, the Board believes that what may look as impossible now, may be a possible down the road. The Board looks forward toward engaging in a continuing conversation on the issues. He noted that there is a timing issue with the soccer fields associated with an outdoors sports complex and working toward retaining CYSA in Morgan Hill.

No further comments were offered.

CONSENT CALENDAR:

Action: *On a motion by Council Member Tate and seconded by Council Member Carr, the City Council unanimously (5-0) **Approved** Consent Calendar Items 1-11 as follows:*

1. **INDOOR RECREATION CENTER PROJECT – DECEMBER CONSTRUCTION PROGRESS REPORT**
Action: ***Information** Only.*
2. **APPROVAL OF PURCHASE ORDERS TO U.S. FILTER FOR PERCHLORATE REMOVAL SYSTEMS OPERATION AT NORDSTROM AND TENNANT WELLS THROUGH JUNE 30, 2006**
Action: ***Authorized** Issuance of Purchase Orders to U.S. Filter in the Amount of \$123,300.*
3. **LAND LEASE FOR GO KIDS AT GALVAN PARK**
Action: *1) **Approved** Land Lease Agreement; and 2) **Authorized** the City Manager to Execute a Land Lease of a Portion of Galvan Park to Go Kids, a Non-Profit Corporation for the Fee of \$1.00 Per Year.*
4. **AMENDMENT TO CONTRACT PROVIDING PUBLIC WORKS INSPECTIONS ON AN AS-NEEDED BASIS**
Action: *1) **Approved** Amendment to the Contract with Testing Engineers, Inc. (TEI) to Increase the Contract Amount by \$50,000; and 2) **Authorized** the City Manager to Execute the Contract Amendment, Subject to Review and Approval by the City Attorney.*
5. **ACCEPTANCE OF MONTEREY ROAD BIKE DETECTION INSTALLATION PROJECT**

Action: 1) Accepted as Complete the Monterey Bike Detection Installation Project in the Final Amount of \$40,903.50; and 2) Directed the City Clerk to File a Notice of Completion with the County Recorder's Office.

6. **DOWNTOWN TRAFFIC CALMING – SIX MONTH REVIEW AFTER JUNE 2005 INITIAL INSTALLATION**

Action: Information Only at This Time.

7. **CONSULTANT AGREEMENT FOR DEVELOPMENT PROCESSING SERVICES CUSTOMER SERVICE STUDY**

Action: Authorized the City Manager to Execute a Contract with Colgan Consulting Corporation for the Purpose of Conducting a Customer Service Study of the City of Morgan Hill's Development Processing Services; Subject to Review and Approval by the City Attorney.

8. **DELTA DENTAL BENEFIT PLAN**

Action: Authorized the City Manager to Execute Amendments to the Dental Benefit Plan.

9. **SUPPLEMENTAL LAW ENFORCEMENT SERVICES FUND**

Action: 1) Approved the Fiscal Year 2005-2006 Spending Plan for the Supplemental Law Enforcement Services Fund (S.L.E.S.F.); and 2) Increased the Fiscal Year 2005-2006 Police Budget within the General Fund by \$50,000 for the Cost of the Multi-Service Officer (MSO) Prisoner Transport Vehicle.

10. **PURCHASE OF POLICE MOTORCYCLES**

Action: 1) Authorized the Purchase of Two (2) Motorcycles from the Huntington Beach Honda Dealership Through Reliance Upon the Competitive Bid Process for a Total Cost of \$29,104.38; and 2) Declared the Two (2) Vehicles Being Replaced as Surplus and Authorized the Sale of these Vehicles at Auction.

11. **ADOPT ORDINANCE NO. 1748, NEW SERIES**

Action: Waived the Reading, and Adopted Ordinance No. 1748, New Series, and Declared That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL AUTHORIZING AN AMENDMENT TO THE CONTRACT BETWEEN THE CITY COUNCIL OF THE CITY OF MORGAN HILL AND THE BOARD OF ADMINISTRATION OF THE CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM TO PROVIDE 2.5% AT 55 RETIREMENT BENEFIT FOR MISCELLANEOUS EMPLOYEES.**

OTHER BUSINESS:

12. **APPOINTMENT OF CITY ATTORNEY**

Mayor Kennedy indicated that this item pertains to the appointment of Janet Kern as the city attorney for the City of Morgan Hill. He stated that the Council has gone through a lengthy review/interview process

and that they are pleased to announce that an offer has been made to Janet Kern and that she has accepted the Council's offer in the position.

Mayor Kennedy opened the floor to public comment. No comments were offered.

Action: *Council Member Tate made a motion, seconded by Council Member Sellers, to Appoint Janet C. Kern as City Attorney for the City of Morgan Hill.*

Action: *Council Member Tate made a motion, seconded by Council Member Sellers, to Approve Employment Agreement.*

Action: *Council Member Tate made a motion, seconded by Council Member Sellers, to Authorize the Mayor to Execute Employment Agreement on Behalf of the City.*

Mayor Pro Tempore Grzan welcomed Janet Kern to the community/City of Morgan Hill, and thanked her for accepting the position. He stated there are a number of challenges the City will face in the future and that as city attorney; she will be challenged with a number of issues. He indicated that she would receive a tremendous amount of support from Council and staff. He indicated that this is a wonderful place to work/live and that he is looking for a number of accomplishments as the City moves forward.

Council Member Carr indicated that the Council recently went through a very involved recruitment process in reviewing resumes, conducting personal interviews, conducting second interviews, and checking references. He said that a lot of hard work went into this effort that resulted in a good conclusion. He said that Ms. Kern quickly rose to the top in the process and made the selection one that everyone is proud of and eager to move forward with. He was pleased to have Ms. Kern on board and be a part of the City team. He said that the timing is perfect as the Council is setting its goals and embarking on where it wants to take the City. He was pleased to be able to move forward with the contract this evening.

Council Member Sellers said that the Council determined early on in the process that it was going to find someone who they considered to be the best candidate. If this occurred in the initial phase, that would be great; and had it not, the Council would have continued its search until it was satisfied with a city attorney candidate. He concurred with the comments expressed by the other Council Members in that the Council is excited about having Ms. Kern on board as the city attorney. He indicated that the City faced a variety of unique challenges over the past few years and that it is his hope that the significant legal issues would be minimized in the future. He looks forward toward working with the new city attorney over the next few months and years.

Mayor Pro Tempore Grzan thanked Interim City Attorney Siegel for the tremendous support he has provided the City over the last couple of years and for his guidance.

Mayor Kennedy announced that Ms. Kern's official start date as the City Attorney will be February 20, 2006 where a formal reception will be held. This will provide time for the public to meet Ms. Kern. He concurred that Ms. Kern rose to the top, over all candidates; indicating that there were excellent and well qualified applicants for the city attorney position.

Vote: *The three motions carried unanimously (5-0).*

Ms. Kern indicated that she is honored with the appointment and that she is looking forward toward working with all Council members. She has heard clearly about the issues that are challenging the City at this time and that she is ready to work on these challenges.

13. DEPOT STREET RECONSTRUCTION PROJECT ON-STREET PARKING

Assistant Public Works Director Bjarke presented the staff report. He informed the Council that staff has eliminated all contentious issues with respect to parking and the affected tenants/property owners along Depot Street, including that of the Academy of Martial Arts. Staff recommends Council adoption of the proposed parking plan which includes parking on one side of Depot Street, along the east side, from Main Avenue to Third Street and that from Third Street to Fifth Street, parking would move over to the west side. He indicated that bike lanes would be provided on both sides of the streets. With respect to the resolution of the Academy of Martial Arts, he indicated that it is proposed to widen the curb and provide a striped temporary drop off lane. Also, being proposed is the installation of a four-way stop sign at the intersection of Third and Depot Streets in order to slow traffic down and make crossing the street easier.

Council Member Tate noted that the east side of Depot Street, between Fifth Street and Dunne Avenue, is not a part of this project and would be conspicuous when the work is completed. He inquired whether there were any plans to install curb and gutter in this area.

Mr. Bjarke indicated that there are no plans to install curb and gutter along this area. He said that the reason the project stopped at Fifth Street is because the General Plan identifies Dunne Avenue as eventually becoming grade separated over and above the railroad tracks. Depot Street is called out to be cul de sac at or near Fifth Street. He indicated that staff is considering an entry statement coming from the south, but that staff has not begun to design the entry statement.

Council Member Sellers noted that construction is to commence in July 2006 with an anticipated completion date in December 2006. He indicated that parades are held in July and December, and that both parades use Depot Avenue as a staging area. In the middle of all this, the Taste of Morgan Hill will take place. He inquired whether these issues have been addressed by parade proponents and the Chamber of Commerce with staff.

Mr. Bjarke said that it is not proposed to commence construction until after the Fourth of July parade. The contract is proposed to be awarded in June 2006 and construction commencing later in July, after the parade is over. He informed the Council that he has been working with Sunday Minnich regarding the Mushroom Mardi Gras event as a utility undergrounding project will take place in May. Staff has been in touch with the Taste of Morgan Hill group as well as coordinating with this group to minimize construction, including minimizing impacts to the Farmer's Market. It is proposed to allow as much parking as possible.

Mayor Kennedy opened the floor to public comment.

Dan Ehrler stated that he met with staff about the Taste of Morgan Hill and possible impacts. He agreed that there will be some challenges associated with the construction to take place. He stated that the Chamber of Commerce will be working with staff to figure out how staging can occur and get the vendors in. He expressed his appreciation to Mr. Bjarke, Public Works Director Ashcraft and other staff members in meeting with the owners of the Martial Arts business. Staff genuinely listened to concerns and worked toward a solution that appears to be beneficial to everyone.

Charles Weston stated his appreciation to Public Works staff (Mr. Bjarke, Yat Cho, and Julie Behzad) for making sure that his concerns were addressed. He said that it is a little disturbing that there will only be parking on one side of the street as it is felt that Depot can provide parking on both sides of the street. He requested that consideration be given to narrowing the street. He indicated that he gave Mr. Bjarke a proposal that would provide parking between the train depot and the Granary. He noted that the property is not being used and is a weed patch at this time. He felt that there may be up to 10 extra parking spaces provided that could make up for the lost parking along Depot Street. He understands that this would add costs, but felt this area would add to the lost parking.

Dan Craig, representing the Morgan Hill Downtown Association, commended staff for their efforts as they went the extra mile to work on the tough issues associated with the project. He informed the Council that the Association Board established a position that they would like to see the parking designed along the east side of Depot Street as they would like the least number of parking spaces lost. He was pleased to know that some of the other private property owners' issues were rectified during the process and that staff should be commended for their efforts.

Leslie Miles informed the Council that she and Gary Walton spent some time on Monday talking and that Mr. Walton shared information about other cities who have conducted street narrowing schemes that allowed parking on both sides of a street. It has been found that there are a number of individuals who take Depot as a short cut. In the long run, when it becomes a dead end street and a stop sign is installed, it will deter individuals from using Depot as a short cut. She requested the opportunity to review street narrowing schemes with staff. She wants to make sure that the consultants are looking at the context of the Granary project to ensure their design has a relationship to this project; being Morgan Hill specific.

No further comments were offered.

Mr. Bjarke said that the proposal, as mentioned by Mr. Weston, appears to be viable for creating up to 10 parking spaces. The design would include connecting the parking lot constructed at the Granary project with the Depot project. He indicated that the vacant lot is owned by the City and that this is something that staff is looking into. He informed the Council that he has reviewed the information Mr. Walton shared with Ms. Miles. He stated that the information depicts narrow street width designation where you have parking on both sides of the street as well as cars traveling both ways. He said that staff would have to review the bike lanes; noting that the funding source for this project is for transportation for livable communities. The intention of this project is to enhance pedestrian and bicycle traffic through the area. However, staff would be willing to take a closer look at the street width proposal.

Council Member Sellers stated that the Community & Economic Development Committee reviewed this project. He said that when this issue first came before the Committee, the Committee was anxious about

the project. The Committee felt it was appropriate to have a public airing of the issues. At the time, the Committee did not know that staff would employ creativity in coming up with a solution to resolving what he believed would be an unsolvable problem. He thanked Committee Member Carr for placing this item on their agenda last week; and to staff, the Downtown Association and downtown businesses who worked on a collaborative effort/successful resolution.

Council Member Tate noted that Mr. Craig inquired why the City flipped the parking over to the west side. It was his belief that the reason for shifting parking to the west side is due to the fact that additional parking would be achieved as there would be less curb cuts.

Mr. Bjarke indicated that the same number of parking spaces would be achieved on either side of the street for this particular stretch of the road. This would not be the case as you go further to the north. The reason for shifting parking to the west side of the street is because of the proposed development of the area (e.g., mixed use) where it made sense to have parking provided along the west side of the street.

Action: *On a motion by Council Member Sellers and seconded by Council Member Tate, the City Council unanimously (5-0) **Approved** Staff Recommended On-Street Parking Plan for the Depot Street Reconstruction Project.*

PUBLIC HEARINGS:

14. WATER-EFFICIENT LANDSCAPING ORDINANCE – Ordinance No. 1751, New Series

Programs Manager Eulo presented the staff report, indicated that the City does not currently have a good water conservation landscape ordinance in place, and that the ordinance before the Council is proposed to change this. He informed the Council that the City is currently addressing the issue of landscape water efficiency from three angles: 1) The City is setting an example through the demonstration water conservation garden at City Hall. 2) The program the Council previously authorized, in partnership with the Water District, offers rebates to individuals who remove lawn and replace it with water conserving landscaping. He said that staff is waiting for the latest promotional materials on this program and that once received, the program will be publicized. The rebate to Morgan Hill residents is up to \$2,000 to pay for the plants and materials associated with the conversion from turf to a water conserving landscape plan. Businesses would be entitled up to a \$20,000 rebate. He informed the Council that the City is the only city that is doubling the Water District's rebate program. 3) The ordinance would require future development to have water conserving landscaping. He stated that the ordinance, as proposed, is consistent with the State's model ordinance and is a hybrid from another jurisdiction's successful ordinance. He informed the Council that the proposed ordinance was reviewed by the Architectural & Site Review Board, the Utility & Environmental Committee, and developers.

Mayor Pro Tempore Grzan thanked Mr. Eulo and staff for preparing the ordinance before the Council. He felt it imperative for cities in California to look toward water conservation in order to mitigate the water needs in communities. He said that the City of Morgan Hill needs to take the initiative to show the community what the City can do, and adopt workable ordinances that provide for draught tolerant landscaping and efficient irrigation systems. He noted that California is a growing state and that this is a growing community with limited water resources. Therefore, an ordinance such as this one provides the City with an opportunity to curtail the use of water and encourages water conservation to preserve our

water sources today and for generations to come. He applauded staff for bringing this ordinance forward.

Mayor Kennedy opened the public hearing. Leslie Miles indicated that it was her belief the City had such an ordinance in place for the past 15 years. She commended/applauded the City for its effort on the water conservation ordinance. No further comments being offered, the public hearing was closed.

Action: *On a motion by Council Member Tate and seconded by Council Member Sellers, the City Council unanimously (5-0) **Waived** the Reading in Full of the Ordinance No. 1751, New Series, Adding Chapter 18.73 (Water Conserving Landscapes) of the Municipal Code.*

Action: *On a motion by Council Member Tate and seconded by Council Member Sellers, the City Council **Introduced**, Ordinance No. 1751, New Series, by title only as follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL ADDING CHAPTER 18.73 (WATER CONSERVING LANDSCAPES) OF TITLE 18 (ZONING) OF THE MUNICIPAL CODE OF THE CITY OF MORGAN HILL REGARDING THE ESTABLISHMENT OF LANDSCAPE REGULATIONS PROMOTING THE EFFICIENT USE OF WATER**, by the following roll call vote: AYES: Carr, Grzan, Kennedy, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: None.*

OTHER BUSINESS: *(Continued)*

15. RETROACTIVE FEE REVISIONS FOR SOLAR PHOTOVOLTAIC ROOF SYSTEM PERMITS

Chief Building Official Ford presented the staff report, requesting Council direction regarding the issuance of refunds for solar permits. He informed the Council that the Utility & Environmental Committee reviewed this matter and is returning for Council consideration. He stated that in the past, the Building Division issued solar permits as combination building permits; consistent with most other agencies. However, after careful consideration, staff determined that these permits are approximately 90%-95% electrical only permits and 5%-10% other related structural and/or building permit fees. With careful consideration, and the approval of the City Manager, staff changed its policy and started issuing the solar permits as electrical only permits. This process commenced in December 2005. Staff believes that even with these revised fees being collected for electrical only permits, they will pay for the services the City provides in plan checking and inspections. He clarified that fees in the past were not collected incorrectly and that no one was over charged. The fees collected were in compliance with the policy in place at the time. Staff would like to know to what extent the Council wishes to refund fees. He indicated that staff is suggesting that a reasonable refund be given to commercial applications where applicants were charged a large amount for these types of services. He said that a refund for Mr. Kushner's project would amount to \$3,906.62. Should the Council decide to refund the difference of all solar permits issued in the last three years, the refund amount would equate to \$21,927.

Mayor Pro Tempore Grzan inquired how much of the \$21,927 refund calculation is for commercial and how much is for residential.

Mr. Ford informed the Council that over the past three years, the City issued only one large commercial permit and that the other permits were for evaluations that equate from \$15,000 - \$30,000; most for residential applications. He said that 90% of these solar permits are electrical in nature with 10% being structural or building in nature.

Mayor Pro Tempore Grzan inquired whether the permits issued in the past included fees for work/inspections the City never conducted. He acknowledged that technically the City did not overcharge, but did not provide all the services the City would have provided.

Interim City Attorney Siegel stated that staff is comfortable in stating that the permit fees charged were accurate and the services were provided based on how the permits were calculated during that period of time. With the additional information being provided, staff has been able to figure out a way to provide services in a more economical fashion and to reflect the reality of a push toward alternative sources of energy. He recommended the City be careful about indicating that there was something wrong or that services were not provided. To his knowledge, it is only Mr. Kushner who has lodged a complaint about these fees and that no one else who received these permits had complaints about the fees or services provided by the Building Division.

Mr. Ford informed the Council that the photovoltaic solar permits are fairly new and have only been around for three years. When these permits first started, there was a lot of staff time spent on special training for the building inspectors on photovoltaic inspections.

Mayor Kennedy inquired which fund the refunds would come from.

City Manager Tewes said that fees are paid into the Community Development Fund, an enterprise fund that takes into account the engineering and planning activities for private land development, and building inspections. This fund would require an appropriation in the amount determined by the Council and that subsequent fees would have to make up this difference as costs were incurred.

Mayor Kennedy felt that in fairness and equity, if fees are to be refunded, all fees should be refunded even though it is a significant hit of approximately \$22,000. He stated that he would support refunding all fees three years back.

Mayor Pro Tempore Grzan indicated that the Utility & Environmental Committee supports and recommends the City refund three years back. In fairness, he would agree to refund 3 years back, but would agree to refund at least a year back; covering the year that this concern was raised.

Council Member Carr stated that he understood the rationale for Mr. Kushner's protest of the solar permit fees. The Council agreed to look into the fees. He agreed to move forward with a revised reduced fee because it sets the policy the Council wants to institute; trying to institute and promote alternative energy sources into Measure C. He recommended the Council to be careful and have a good rationale for refunding years back. He expressed concern that the Council may be setting a difficult precedent. If it can be determined that other fees can be reduced for an economic development purpose or some other policy and/or rationale, the Council may be setting a direction that it would go back, analyze and provide refunds to individuals based on changes. He was not sure about the argument of fairness as it

could be carried too far as the rational for refunding fees. If the City is going to spend tax dollars to refund these fees, he needs to have a good rational for the public purpose in doing so.

Council Member Tate noted that Mr. Ford indicated that this was a new technology three years ago and that inspectors needed training. He noted that the Council has a policy in place that states it is to examine City fees every few years. As inspectors gain experience and knowledge, fees are adjusted. He shared the concern about setting a precedent for something that seems well justified for what had been charged.

Council Member Sellers noted that costs are initially higher at the beginning of new technology and that there are additional costs incurred. He noted that Mr. Kushner was the only commercial applicant for a recent photovoltaic permit. He said the Council could state that this was a commercial project and the City conducted a study. Through the study, it was found that there were fee issues. As this is the third year that these permits have been issued, it could be stated the City has absorbed most of the costs incurred with the initial start up and training. Therefore, the Council can justify changing the fees. It could be stated that the costs incurred early on were appropriate due to the work and costs involved. However, it is now appropriate to consider a fee reduction. He stated that he would support a fee reduction for commercial permits going back and refunding Mr. Kushner \$3,900. He recommended that the new fees be applied henceforward as he supports the new process.

Mayor Pro Tempore Grzan stated his support of refunding one year back. He said that an individual could argue that they applied for permits within months of the Council changing its policy. He felt the City could have looked at these fees a little closer prior to Mr. Kushner bringing this issue to the Council's attention and prior to having the City being portrayed as a municipality with one of the largest costs for these types of permits. In fairness to permits being issued prior to Mr. Kushner's permits, he recommended the City go back a year and provide refunds. He felt that the Council would serve its residents well in doing so.

Action: *Mayor Pro Tempore Grzan made a motion, seconded by Mayor Kennedy, to authorize refund payments for solar photovoltaic roof system permits; going back one year (calendar year 2005).*

Mayor Kennedy agreed that there was a learning curve on the part of staff and that legitimate fees were charged. He noted the Council recently modified its policy. He would support going back one year in providing refunds to be fair.

Council Member Tate indicated that he did not know when Mr. Kushner submitted his application. He recommended that the date Mr. Kushner submitted his permit application be the effective date to refund.

Council Member Carr felt the decision to refund needs to be tied to something that can demonstrate a public purpose for spending these resources. He felt that Council Member Tate's suggestion of identifying the date Mr. Kushner submitted his permit be the start date for refunds. He noted that the Committee was already reviewing the fees before the City was challenged on its fees. He indicated that he needs to find something to tie the rebate to. He could tie the rebate to Mr. Kushner's challenge on the fees being charged. He does not find a public purpose in making the refunds, arbitrarily going back 1-3 years.

Mayor Pro Tempore Grzan stated that he would find it difficult not to refund an individual who applied for a permit three weeks before Mr. Kushner did. He felt that the calendar year 2005 would be an appropriate earmark to refund.

Council Member Sellers agreed that refunds need to be tied to something. He said that it could be stated that the City went back to review the fees. In reviewing the fees, the City realized that there was a point in which it made sense to make the transition to revise the fees. He noted that Mr. Kushner's fees fell within this timeline. It could be stated that in the year 2005, the Council realized that the City could reduce the permit fee. He expressed concern with tying the rebate to Mr. Kushner's case because the City tied the rebate to an arbitrary demarcation point: the date Mr. Kushner requested Council reconsideration of the fees. He recommended that the refund be tied to the beginning of 2005 as this is the time the Council reviewed the process and realized that this was the year where there was a significant demarcation as the City absorbed all of the significant early costs; figuring a way to reduce the overall costs that were charged. Therefore, he would support the motion based on these two points.

Mayor Kennedy opened the floor to public comment. No comments were offered.

City Manager Tewes indicated that staff has observed that building permit numbers are issued in sequential order. Staff does not know the date of the submittal of Mr. Kushner's application. However, if the Council decides to refund from the date Mr. Kushner submitted his permit application; three subsequent permits were issued in 2005. If the motion is to refund Mr. Kushner's permit and those permits filed subsequently, this would add up to approximately \$5,200.

Action: *The motion carried 3-2 as follows: Ayes: Grzan, Kennedy, Sellers; Noes: Carr, Tate.*

16. APPOINTMENT TO LIBRARY, CULTURE & ARTS COMMISSION

Council Services & Records Manager Torrez indicated that the Council interviewed Mr. Stan Salah last week to fill a vacancy on the Library, Culture & Arts Commission. The Council may wish to discuss Mr. Salah's qualifications for appointment or the Council can proceed with a recommended appointment.

Council Member Sellers thanked Mr. Salah for interviewing for the Library, Culture & Arts Commission. He felt Mr. Salah is well qualified and would support his appointment to the Commission.

Mayor Kennedy indicated that he would appoint Mr. Salah to the Library, Culture & Arts Commission.

Action: *On a motion by Council Member Sellers and seconded by Council Member Carr, the City Council unanimously (5-0) **Ratified** the Mayor's Appointment of Mr. Salah to the Library, Culture & Arts Commission; Term Ending April 1, 2007.*

FUTURE COUNCIL-INITIATED AGENDA ITEMS

No items were identified.

ADJOURNMENT

There being no further business, Mayor Kennedy adjourned the meeting at 8:25 p.m.

MINUTES RECORDED AND PREPARED BY:

IRMA TORREZ, CITY CLERK/AGENCY SECRETARY



REDEVELOPMENT AGENCY STAFF REPORT

MEETING DATE: February 1, 2006

SECOND QUARTER REPORT FROM THE CHAMBER OF COMMERCE ECONOMIC DEVELOPMENT PARTNERSHIP

RECOMMENDED ACTION(S): Accept the report.

Agenda Item #9

Prepared By:

BAHS Director

Submitted By:

Executive Director

EXECUTIVE SUMMARY:

On August 3, 2005, the Agency approved an agreement with the Chamber of Commerce (Chamber) to provide economic development services per its Economic Development Marketing Plan (Plan).

The key services under the FY05-06 Plan are as follows:

- Implement business retention and attraction programs
- Implement marketing /advertising strategy
- Develop and implement advertising campaign such as the "Shop in Morgan Hill" campaign
- Prepare and maintain marketing materials
- Plan and coordinate economic development related events (e.g., "business appreciation lunch")
- Maintain real estate property database on website
- Coordinate activities with the Morgan Hill Downtown Association
- Work with the tourism advisory committee and market/advertise special events

The Chamber provides quarterly reports on their activities under the Plan. Attached is the Chamber's second quarter report. The Council received the first quarter report in October 2005.

FISCAL IMPACT: The Agency has an agreement for \$125,000 with the Morgan Hill Chamber of Commerce to provide supplemental economic development activities. To date, we have reimbursed the Chamber about \$84,000 for services.



REDEVELOPMENT AGENCY

MEETING DATE: *February 1, 2006*

Agenda Item # 10

Prepared By:

BAHS Manager

Approved By:

BAHS Director

Submitted By:

Executive Director

REDEVELOPMENT PLAN AMENDMENT CONSULTANT

RECOMMENDED ACTION(S): Authorize the Executive Director to execute a contract with GRC Redevelopment Consultants, Inc., in an amount not to exceed \$225,800 to perform all work necessary to prepare the second amendment to the redevelopment plan for the Ojo de Agua Community Development Project Area, subject to Agency General Counsel approval.

EXECUTIVE SUMMARY: On November 2, 2005, the Morgan Hill Redevelopment Agency (Agency) authorized staff to issue a Request for Proposals (RFP) for firms to prepare a redevelopment plan amendment. The RFP was mailed-out in November; proposals were due in December 2005. Responses were received from two firms: RSG and GRC. RSG prepared the initial feasibility study

The requested scope of services included but not limited to: workshops with the Agency Board/City Council, community outreach and education, meetings with staff, preparation of all the necessary public notices, documents, maps, reports (e.g., the Preliminary Plan, Amendment to the Plan, Report to Council, documents to taxing entities), blight analysis, environmental review and documentation (i.e., Environmental Impact Report - EIR), financial analysis/tax implications, and meetings with taxing agencies.

While both firms were experienced and well qualified, staff believes that GRC Redevelopment Consultants, Inc. (GRC) most closely meets the needs of this assignment (see attached consultant proposal). While GRC will be the lead consultant group in charge of the plan amendment, their team also includes financial consultants Fraser and Associates, and civil engineers Kenneth Wilch and Associates. GRC is ready to begin and fully committed to the project. Depending on the course selected by the Agency, GRC's schedule calls for a completed plan amendment somewhere between November 2006 and February 2007.

Staff is requesting a not to exceed amount of \$225,800 and will work with GRC to refine the scope of work and the budget before signing the contract. This amount assumes the addition of territory and includes an EIR, a "plug" number for special studies, and engineering costs (for a legal description, definition of boundaries, etc.). The breakdown for the work is: GRC-\$179,950, Fraser - \$35,350, and Wilch - \$10,500. The cost of the EIR and special studies (\$59,500) is contained in GRC's budget number.

Further refinement of the project scope and budget will occur through the proposed workshops with the Agency Board and after we have defined the exact components of the plan amendment. There will be some other costs for the plan amendment outside of this contract, most particularly legal fees.

FISCAL IMPACT: Sufficient funds for this work have been budgeted between the Agency's 317 (Economic Development) and 327 (Housing) budgets.



REDEVELOPMENT AGENCY

STAFF REPORT

MEETING DATE: *February 1, 2006*

SKEELS BLDG AND CREST AVE. APARTMENTS LOANS

RECOMMENDED ACTION(S):

1. Authorize staff to prepare a new loan agreement with South County Housing (SCH) for the Skeels Building to: (a) provide a 20-year term[through December 2025]; (b) require SCH to make a one-time payment of \$50,000 against the existing loan prior to executing the new loan; (c) have the new Agency loan require fixed annual payments of \$3,000; and, (d) authorize the subordination of the new Agency loan to a new conventional loan;
2. Authorize the subordination of the Agency's existing loans with SCH for the Crest Avenue Apartments (Crest) to the new first mortgage; and,
3. Authorize the Executive Director to do everything necessary to prepare, negotiate and execute loan documents, subject to City Attorney review.

EXECUTIVE SUMMARY: On March 17, 1995 the Agency executed a \$300,000 residual receipts loan with SCH for the Skeels Building. The loan rate is 3% simple interest per year through December 2005. The loan contains a provision allowing an extension to January 1, 2010. The project has never generated sufficient income to make an annual payment although a single principal payment in the amount of \$110,000 was made on August 12, 1998.

In 1994, the Agency assisted SCH in purchasing three of the 10 Crest Avenue fourplexes and providing rehabilitation loans to seven of them, in return for having all seven placed under SCH management as income restricted, affordable housing. All three of the fourplexes owned by SCH have deferred acquisition loans from the Agency. Two of the fourplexes also have amortized Agency rehabilitation loans which will be paid-off through this refinancing. The combined balances of the rehabilitation loans are approximately \$19,600.

SCH would like to take advantage of current lower interest rates and increased values of these properties to secure a new first mortgage that will be secured by Skeels, Crest and two other projects owned by SCH. All subordinate lenders, including the Agency, will need to subordinate their loans to the new mortgage. The excess funds generated by this action would be used to rehabilitate one of the other two projects which has been unable to generate sufficient income on its own to pay for needed repairs and renovations.

To encourage the Agency to accept this concept, SCH is proposing to make an immediate one-time payment of \$50,000 on the Agency's Skeels Building loan. The remaining balance, along with interest accrual, (\$197,236) would be rewritten as a new 20-year loan. The interest rate would remain at 3% simple, but the new loan would require annual fixed payments of \$3,000 as well as a 20%/80% residual receipts share with Agency/County. (The County is requiring the residual receipt split in place of its previous deferred language as condition of subordinating to the larger debt.) We are recommending this structure because it provides the best opportunity for SCH to repay the loan. Extending the current loan to 2010, or refinancing the Skeels Building alone would not generate sufficient income to provide any significant repayment of debt. Additionally, the two rehabilitation loans on Crest would be repaid.

FISCAL IMPACT: No additional Agency funds would be required.

Agenda Item # 11

Prepared By:

BAHS Analyst

Approved By:

BAHS Director

Submitted By:

Executive Director



CITY COUNCIL STAFF REPORT

MEETING DATE: *February 1, 2006*

ZONING AMENDMENT ZA-05-16 & DEVELOPMENT AGREEMENT DA 05-07: WRIGHT AVE.-MANANA

RECOMMENDED ACTION(S):

1. Open/Close Public Hearing
2. Motion to approve the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program.
3. Waive the reading in full of the Zoning Amendment Ordinance
4. Introduce on first reading the Zoning Amendment Ordinance (roll call vote)
5. Waive the reading in full of the Development Agreement Ordinance
6. Introduce on first reading the Development Agreement Ordinance

Agenda Item # 12

Prepared By:

Senior Planner

Approved By:

**Community
Development Director**

Submitted By:

City Manager

EXECUTIVE SUMMARY: A request to amend the zoning to allow a Residential Planned Development (RPD), and approve a development agreement for the 15-unit Mallorca project proposed on a 2.65-acre site located on the northwest corner of the intersection of Wright Ave. and Hale Ave.

This Zoning Amendment would establish a precise development plan for a 15-unit residential development on lots which range in size from 3,083 to 7,579 sq. ft. A reduction in the minimum lot size allows for dedication of 1.52 acres to the SCVWD and the creation of a .27 acre park proposed along the eastern edge of the proposed development. As part of the proposed project, the applicant will construct an open storm water detention basin on 1.52 acres (adjacent to Hale Ave.) which will be large enough to detain water from the 12.65 acres of surrounding land which currently drains onto the project site. Three, 30-inch pipes (approx 627 ft. long) are proposed under the park area to accommodate the additional run off resulting from the development of the project site. Once the detention basin is completed, it will be dedicated to the SCVWD to be included in the future Upper Llagas Creek Flood Protection Project.

The units as proposed on the lots meet the R-2 setback and building height requirement for single family attached and detached homes. The only recommended site plan modification is the relocation of the driveway proposed on lot one so that it can be located farther from the intersection. The precise development plan meets all of the RDCS commitments. The project has not submitted phasing plan so the exact timing of the RDCS commitments is not specifically known. As a condition of approval, the project is required to have a phasing plan approved by the Public Work Department and Planning Division prior to the recordation of the final map. It is also recommended that the project phasing be adjusted to include lots 10-15 in phase I and phase II would include lots 1-9. The recommended phasing plan would allow for the appropriate percentage of BMRS and moderate rate units to be provided within each phase.

In accordance with established Council policy, all residential projects awarded building allotments through Measure "P" must secure Council approval of a development agreement. Development agreements are required as a formal contract between the developer and the City. The Development Agreement for the project is attached for Council review. The 2004 Measure "P" commitments and a processing schedule are included within the agreement. (See Exhibit "B" of the agreement for schedule.)

The Commission considered the Zoning Amendment and Development Agreement at the January 10, 2006 meeting and voted 5-1 (Commissioner Davenport voting no) to recommend Council approval. The Commission also voted 5-1 to recommend approval of the project's Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program. The Commission's staff report and minutes are attached for Council's reference.

FISCAL IMPACT: None. Filing fees were paid to the City to cover processing of this application.

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ORDINANCE NO. , New Series

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING A ZONING AMENDMENT TO ESTABLISH AN R-2 3,500/RESIDENTIAL PLANNED DEVELOPMENT ON A 2.65 ACRE SITE LOCATED ON THE NORTHWEST CORNER OF THE INTERSECTION OF WRIGHT AVE. AND HALE AVE. (APNs 764-32-017 & 018)

THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY ORDAINS AS FOLLOWS:

SECTION 1. The proposed zoning amendment is consistent with the Zoning Ordinance and the General Plan.

SECTION 2. The zone change is required in order to serve the public convenience, necessity and general welfare as provided in Section 18.62.050 of the Municipal Code.

SECTION 3. An environmental initial study has been prepared for this application and has been found complete, correct and in substantial compliance with the requirements of California Environmental Quality Act. A mitigated Negative Declaration will be filed.

SECTION 4. The City Council finds that the proposed R-2 RPD Overlay District is consistent with the criteria specified in Chapter 18.18 of the Morgan Hill Municipal Code.

SECTION 5. The City Council hereby amends the City Zoning Map as shown in attached Exhibit "A".

SECTION 6. The City Council hereby approves the precise development plan as contained in that certain series of documents dated August 11, 2005 (date of receipt by the Community Development Department) on file in the Community Development Department, entitled "Mallorca Site Development Plan" by MH Engineering. These documents, as further amended by site and architectural review, show the exact location and sizes of all lots in this development and the location and dimensions of all proposed buildings, vehicle and pedestrian circulation ways, recreational amenities, parking areas, landscape areas and any other purposeful uses on the project. The precise development plan shall be amended as follows:

(1) A phasing plan shall be reviewed and approved by staff which: 1) Clearly defines phases I as 6 units consisting of lots 10-15, and phase II as 9 units consisting of lots 1-9; 2) Provides 1 BMR and 1 moderate rate unit in Phase I, and one BMR and 1 moderate rate unit in phase II; and 3) Clearly indicates the limits and improvements proposed within each phase.

(2) All floor plans & elevation shall be reviewed by the Architectural and Site Review Board (ARB) prior to final map approval. A site plan shall be provided to the ARB indicating where each model and elevation will be used.

(3) The M140 unit shown on lot 1 shall locate the driveway away from the corner of Wright Ave. and Oak Grove Dr.

SECTION 7. Severability. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.

SECTION 8. Effective Date Publication. This ordinance shall take effect thirty (30) days after the date of its adoption. The City Clerk is hereby directed to publish this ordinance pursuant to §36933 of the Government Code.

The foregoing ordinance was introduced at the regular meeting of the City Council of the City of Morgan Hill held on the Day of February 2006, and was finally adopted at a regular meeting of said Council on the Day of February 2006, and said ordinance was duly passed and adopted in accordance with law by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:

ATTEST:

APPROVED:

Irma Torrez, City Clerk

Dennis Kennedy, Mayor

∞ CERTIFICATE OF THE CITY CLERK ∞

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Ordinance No. , New Series, adopted by the City Council of the City of Morgan Hill, California at their regular meeting held on the Day of February 2006.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk

ORDINANCE NO. , NEW SERIES

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY
OF MORGAN HILL APPROVING DEVELOPMENT
AGREEMENT APPLICATION DA-05-07 FOR
APPLICATION MP 04-27: WRIGHT AVENUE -
DIVIDEND (APN 764-32-017 & 018)**

**THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY
ORDAINS AS FOLLOWS:**

SECTION 1. The City Council has adopted Resolution No. 4028 establishing a procedure for processing Development Agreements for projects receiving allotments through the Residential Development Control System, Title 18, Chapter 18.78 of the Municipal Code.

SECTION 2. The California Government Code Sections 65864 thru 65869.5 authorizes the City of Morgan Hill to enter into binding Development Agreements with persons having legal or equitable interests in real property for the development of such property.

SECTION 3. The Planning Commission, pursuant to Chapter 18.78.125 of the Morgan Hill Municipal Code, awarded building allocations for fiscal years 2006-2007 thru 2008-2009 to that certain project herein after described as follows:

<u>Project</u>	<u>Total Dwellings</u>
MP-04-27: Wright Ave.-Dividend	FY 2006-07 6 allocations
	FY 2007-08 9 allocations

SECTION 4. References are hereby made to certain Agreements on file in the office of the City Clerk of the City of Morgan Hill. These documents to be signed by the City of Morgan Hill and the property owner set forth in detail and development schedule, the types of homes, and the specific restrictions on the development of the subject property. Said Agreement herein above referred to shall be binding on all future owners and developers as well as the present owners of the lands, and any substantial change can be made only after further public hearings before the Planning Commission and the City Council of this City.

SECTION 5. The City Council hereby finds that the development proposal and agreement approved by this ordinance is compatible with the goals, objectives, policies, and land uses designated by the General Plan of the City of Morgan Hill.

SECTION 6. Authority is hereby granted for the City Manager to execute all development agreements approved by the City Council during the Public Hearing Process.

SECTION 7. Severability. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.

SECTION 8. Effective Date Publication. This ordinance shall take effect thirty (30) days after the date of its adoption. The City Clerk is hereby directed to publish this ordinance pursuant to §36933 of the Government Code.

The foregoing ordinance was introduced at the regular meeting of the City Council of the City of Morgan Hill held on the Day of February 2006, and was finally adopted at a regular meeting of said Council on the Day of February 2006, and said ordinance was duly passed and adopted in accordance with law by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:

ATTEST:

APPROVED:

Irma Torrez, City Clerk

Dennis Kennedy, Mayor

∞ CERTIFICATE OF THE CITY CLERK ∞

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Ordinance No. , New Series, adopted by the City Council of the City of Morgan Hill, California at their regular meeting held on the Day of February 2006.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE:_____

IRMA TORREZ, City Clerk



CITY COUNCIL STAFF REPORT

MEETING DATE: *February 1, 2006*

DEVELOPMENT AGREEMENT AMENDMENT DAA: 04-09: E. DUNNE-DELCO

RECOMMENDED ACTION(S):

1. Open/close Public Hearing
2. Waive the First and Second Reading of Ordinance
3. Introduce Ordinance

EXECUTIVE SUMMARY: The applicant is requesting an amendment to an approved development agreement for phase 1 (34 lots/36 units), of the Jasper Park development located on the south west quadrant of the intersection of E. Dunne Ave. and San Benancio Way. The specific amendment request is to allow for a six month extension of time for submitting and obtaining 8 of the 36 building permits.

Exhibit B of the approved development agreement requires that 8 (FY 05-06) building permits be submitted for, and obtained by August 15, 2005 and September 30, 2005 respectively.

At the time of the July approval of the tentative map and development agreement the applicant did not foresee any problems with meeting the deadlines within the development agreement. The reason cited for the project delay is a "misunderstanding of the process". The applicant did not understand that revised plans needed to return to the ARB for final review and full working drawings are currently being prepared for submittal to the Building Division. The new project manager has been assigned to the project has been in constant contact with city staff. Progress has continued toward final map approval and final plan submittal for ARB review has been received. The applicant anticipates submitting plans to the Building Division after the February 2 ARB review. A letter from the applicant's project manager is attached. The recent progress by the applicant along with the six-month extension request will bring the project into compliance with the City's development processing expectations.

On January 19, the Planning Commission considered the request and voted 6-0 (Escobar absent) to approve the development agreement amendment request as recommended by staff. A copy of the Commission's January 10 minutes and staff report are attached for the Council's reference.

FISCAL IMPACT:

No budget adjustment required.

Agenda Item #13

Prepared By:

Senior Planner

Approved By:

**Community
Development Director**

Submitted By:

City Manager

ORDINANCE NO. , NEW SERIES

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AN AMENDMENT TO ORDINANCE NO. 1733 N.S., AMENDING THE DEVELOPMENT AGREEMENT FOR APPLICATION MP 02-06: E. DUNNE-DEMPSEY (DELCO) ALLOWING FOR A SIX MONTH EXTENSION OF TIME FOR SUBMITTING AND OBTAINING BUILDING PERMITS FOR 8 ALLOCATIONS RECEIVED IN THE 2003 RDCS COMPETITION. (APNS 817-11-067 & 817-11-072)

THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. The City Council has adopted Resolution No. 4028 establishing a procedure for processing Development Agreements for projects receiving allotments through the Residential Development Control System, Title 18, Chapter 18.78 of the Municipal Code.

SECTION 2. The California Government Code Sections 65864 thru 65869.5 authorizes the City of Morgan Hill to enter into binding Development Agreements with persons having legal or equitable interests in real property for the development of such property.

SECTION 3. The Planning Commission, pursuant to Chapter 18.78.125 of the Morgan Hill Municipal Code, awarded 8 building allotments for FY 2005-06, to that certain project herein after described as follows:

<u>Project</u>	<u>Total Dwelling Units</u>
MP-02-06: E. Dunne-Dempsey (Delco)	36

SECTION 4. References are hereby made to certain Agreements on file in the office of the City Clerk of the City of Morgan Hill.

These documents to be signed by the City of Morgan Hill and the property owner set forth in detail and development schedule, the types of homes, and the specific restrictions on the development of the subject property. Said Agreement herein above referred to is amended by this ordinance and shall be binding on all future owners and developers as well as the present owners of the lands, and any substantial change can be made only after further public hearings before the Planning Commission and the City Council of this City.

SECTION 5. The City Council hereby finds that the development agreement amendment approved by this ordinance is compatible with the goals, objectives, policies, and land uses designated by the General Plan of the City of Morgan Hill.

SECTION 6. Authority is hereby granted for the City Manager to execute all development agreements approved by the City Council during the Public Hearing Process.

SECTION 7. Severability. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.

SECTION 8. Effective Date Publication. This ordinance shall take effect thirty (30) days after the date of its adoption. The City Clerk is hereby directed to publish this ordinance pursuant to §36933 of the Government Code.

SECTION 9. MODIFICATION TO DEVELOPMENT SCHEDULE. The Council hereby approves an amendment to the development schedule for MP-02-06: E. Dunne-Dempsey (Delco); attached to this resolution as Exhibit B.

The foregoing ordinance was introduced at the regular meeting of the City Council of the City of Morgan Hill held on the Day of February 2006, and was finally adopted at a regular meeting of said Council on the Day of February 2006, and said ordinance was duly passed and adopted in accordance with law by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:

ATTEST:

APPROVED:

Irma Torrez, City Clerk

Dennis Kennedy, Mayor

∞ **CERTIFICATE OF THE CITY CLERK** ∞

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Ordinance No. , New Series, adopted by the City Council of the City of Morgan Hill, California at their regular meeting held on the Day of February 2006.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE:_____

IRMA TORREZ, City Clerk

Development Agreement Amendment DAA 04-01: Tilton-Glenrock

REVISED EXHIBIT "B"
DEVELOPMENT SCHEDULE
MP-02-06: E. DUNNE – DEMPSEY / MC-04-12: E. DUNNE - DELCO
FY 2005-2006 (8 units) 2006-07 (13 units), FY 2007-08 (5 units), FY 2008-09 (8 units)

I.	SUBDIVISION AND ZONING APPLICATIONS	
	Applications Filed:	October 14, 2004
II.	SITE REVIEW APPLICATION	
	Application Filed:	October 14, 2004
III.	FINAL MAP SUBMITTAL	
	Map, Improvements Agreement and Bonds:	
	FY 2005-06 (8 units)	July 30, 2005
	FY 2006-07 (13 units)	July 30, 2006
	FY 2007-08 (5 units)	July 30, 2007
	FY 2008-09 (8 units)	July 30, 2008
IV.	BUILDING PERMIT SUBMITTAL	
	Submit plans to Building Division for plan check:	
	FY 2005-06 (8 units)	<i>February 15, 2006</i> August 15, 2005
	FY 2006-07 (13 units)	August 15, 2006
	FY 2007-08 (5 units)	August 15, 2007
	FY 2008-09 (8 units)	August 15, 2008
V.	BUILDING PERMITS	
	Obtain Building Permits	
	FY 2005-06 (8 units)	<i>May 15, 2006</i> September 30, 2005
	FY 2006-07 (13 units)	September 30, 2006
	FY 2007-08 (5 units)	September 30, 2007
	FY 2008-09 (8 units)	September 30, 2008
	Commence Construction:	
	FY 2005-06 (8 units)	June 30, 2006
	FY 2006-07 (13 units)	June 30, 2007
	FY 2007-08 (5 units)	June 30, 2008
	FY 2008-09 (8 units)	June 30, 2009

Failure to obtain building permits and commence construction by the dates listed above shall result in the loss of building allocations. Submitting a Final Map Application or a Building Permit one (1) or more months beyond the filing dates listed above shall result in the applicant being charged a processing fee equal to double the building permit plan check fee and/or double the map checking fee to recoup the additional costs incurred in processing the applications within the required time limits. Additionally, failure to meet the Final Map Submittal and Building Permit Submittal deadlines listed above may result in loss of building allocations. In such event, the property owner must re-apply under the development allotment process outlined in Section 18.78.090 of the Municipal Code if development is still desired.

An exception to the loss of allocation may be granted by the City Council if the cause for the lack of commencement was the City's failure to grant a building permit for the project due to an emergency situation as defined in Section 18.78.140 or extended delays in environmental reviews, permit delays not the result of developer inactions, or allocation appeals processing.

If a portion of the project has been completed (physical commencement on at least 17 dwelling units and lot improvements have been installed according to the plans and specifications), the property owner may submit an application for reallocation of allotments. Distribution of new building allocations for partially completed project shall be subject to the policies and procedures in place at the time the reallocation is requested.



CITY COUNCIL STAFF REPORT

MEETING DATE: *February 1, 2006*

ZONING AMENDMENT ZA-05-07 & DEVELOPMENT AGREEMENT DA 05-05: CENTRAL-DELCO

RECOMMENDED ACTION(S):

1. Open/Close Public Hearing
2. Motion to approve the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program.
3. Waive the reading in full of the Zoning Amendment Ordinance
4. Introduce on first reading the Zoning Amendment Ordinance (roll call vote)
5. Waive the reading in full of the Development Agreement Ordinance
6. Introduce on first reading the Development Agreement Ordinance

EXECUTIVE SUMMARY: A request for approval of a Residential Planned Development (RPD), and a request to approve a development agreement for 39 units (5.46-acres) representing Phases I, II, & III of the Viento project located on the north side of East Central Ave. at the terminus of Calle Mazatan.

The proposed Zoning Amendment would establish a precise development plan for a 39-unit residential development containing lots which range in size from 3,288 to 6,990 sq. ft. A reduction in the minimum lot size allows for the creation of a 1.16 acre park with amenities along the west side of the project adjacent to Butterfield Blvd. The proposed park will contain the recreational amenities and also serves as noise buffer. The units as proposed on the lots meet the R-2 setback and building height requirement for single family attached and detached homes.

The precise development plan meets most of the RDSCS commitments except for the 50 percent commitment for alternative garage placement and the repeat factor. As a condition of approval, the project is required to provide additional elevations for models one and two and is also required to provide an additional 12 homes which either have side on, tandem, rear or detached garage.

The project phasing plan indicates 19 units for phase I, 5 units for phase II and 15 units for phase III. It is recommended that the project phasing be adjusted to include the required number of BMRs and moderates within each phase. Also, the phasing plan is required to detail the phasing of the project improvements. The final phasing plan is to be approved by the Public Work Department and Planning Division prior to the recordation of the final map.

In accordance with established Council policy, all residential projects awarded building allotments through Measure "P" must secure Council approval of a development agreement. Development agreements are required as a formal contract between the developer and the City. The Development Agreement for the Viento project is attached for Council review. The 2004 Measure "P" commitments and a processing schedule are included within the agreement. (See Exhibit "B" of the agreement for schedule.)

Commission considered the Zoning Amendment and Development Agreement at the January 10, 2006 meeting and voted 6-0 to recommend Council approval. The Commission also voted to recommend approval of the project's Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program. The Commission's staff report and minutes are attached for Council's reference.

FISCAL IMPACT: None. Filing fees were paid to the City to cover processing of this application.

R:\PLANNING\WP51\Zoning Amendment\2005\ZA0507Central-DelcoHu\ZA0507.m1c.doc

Agenda Item # 14

Prepared By:

Senior Planner

Approved By:

**Community
Development Director**

Submitted By:

City Manager

ORDINANCE NO. , NEW SERIES

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING A ZONING AMENDMENT TO ESTABLISH AN R-2 3,500/RESIDENTIAL PLANNED DEVELOPMENT ON A 7.5 ACRE SITE LOCATED ON THE NORTH SIDE OF EAST CENTRAL AVENUE AT THE NORTHERLY TERMINATION OF CALLE MAZATAN. (APN 726-26-004)

THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY ORDAINS AS FOLLOWS:

SECTION 1. The proposed zoning amendment is consistent with the Zoning Ordinance and the General Plan.

SECTION 2. The zone change is required in order to serve the public convenience, necessity and general welfare as provided in Section 18.62.050 of the Municipal Code.

SECTION 3. An environmental initial study has been prepared for this application and has been found complete, correct and in substantial compliance with the requirements of California Environmental Quality Act. A mitigated Negative Declaration will be filed.

SECTION 4. The City Council finds that the proposed R-2 RPD Overlay District is consistent with the criteria specified in Chapter 18.18 of the Morgan Hill Municipal Code.

SECTION 5. The City Council hereby amends the City Zoning Map as shown in attached Exhibit "A".

SECTION 6. The City Council hereby approves the precise development plan as contained in that certain series of documents dated December 13, 2005 (date of receipt by the Community Development Department) on file in the Community Development Department, entitled "Viento Site Development Plan" prepared by MH Engineering. These documents, as further amended by site and architectural review, show the exact location and sizes of all lots in this development and the location and dimensions of all proposed buildings, vehicle and pedestrian circulation ways, recreational amenities, parking areas, landscape areas and any other purposeful uses on the project. The precise development plan shall be amended as follows:

(1) A phasing plan shall be reviewed and approved by staff which: 1) clearly defines phases I as 19 units consisting of lots 1-18 & 20, phase II as 5 units consisting of lots 21-25 and phase III, 15 units consisting of lots 19, 26-39. 2) Provides 3 BMRs and 2 moderate rate units in Phase I, zero BMR and 1 moderate in phase II, and 3 BMRs and 1 moderate in phase III; and 3) Clearly indicates the limits and improvements proposed within each phase.

(2) Each of the six floor plans shall have a minimum of 2 elevations with repeats of 4 or less. All floor plans & elevation shall be reviewed by the Architectural and Site Review Board (ARB) prior to final map approval. A site plan shall be provided to the ARB indicating where each model and elevation will be used.

(3) The project shall provide 50 percent of the units as ones with either side-loading, detached, rear or two car garages with tandem space to accommodate a third vehicle.

SECTION 7. Severability. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.

SECTION 8. Effective Date Publication. This ordinance shall take effect thirty (30) days after the date of its adoption. The City Clerk is hereby directed to publish this ordinance pursuant to §36933 of the Government Code.

The foregoing ordinance was introduced at the regular meeting of the City Council of the City of Morgan Hill held on the Day of February 2006, and was finally adopted at a regular meeting of said Council on the Day of February 2006, and said ordinance was duly passed and adopted in accordance with law by the following vote:

AYES: **COUNCIL MEMBERS:**
NOES: **COUNCIL MEMBERS:**
ABSTAIN: **COUNCIL MEMBERS:**
ABSENT: **COUNCIL MEMBERS:**

ATTEST:

APPROVED:

Irma Torrez, City Clerk

Dennis Kennedy, Mayor

∞ **CERTIFICATE OF THE CITY CLERK** ∞

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Ordinance No. , New Series, adopted by the City Council of the City of Morgan Hill, California at their regular meeting held on the Day of February 2006.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE:_____

IRMA TORREZ, City Clerk

ORDINANCE NO. , NEW SERIES

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
MORGAN HILL APPROVING DEVELOPMENT
AGREEMENT APPLICATION DA-05-05 FOR APPLICATION
MP 04-14: CENTRAL-HU (DELCO) (APN 726-26-004)**

**THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY
ORDAINS AS FOLLOWS:**

SECTION 1. The City Council has adopted Resolution No. 4028 establishing a procedure for processing Development Agreements for projects receiving allotments through the Residential Development Control System, Title 18, Chapter 18.78 of the Municipal Code.

SECTION 2. The California Government Code Sections 65864 thru 65869.5 authorizes the City of Morgan Hill to enter into binding Development Agreements with persons having legal or equitable interests in real property for the development of such property.

SECTION 3. The Planning Commission, pursuant to Chapter 18.78.125 of the Morgan Hill Municipal Code, awarded building allocations for fiscal years 2006-2007 thru 2008-2009 to that certain project herein after described as follows:

<u>Project</u>	<u>Total Dwellings</u>
MP 04-14: Central-Hu	FY 2006-07 (19 units)
	FY 2007-08 (5 units)
	FY 2008-09 (15 units)

SECTION 4. References are hereby made to certain Agreements on file in the office of the City Clerk of the City of Morgan Hill. These documents to be signed by the City of Morgan Hill and the property owner set forth in detail and development schedule, the types of homes, and the specific restrictions on the development of the subject property. Said Agreement herein above referred to shall be binding on all future owners and developers as well as the present owners of the lands, and any substantial change can be made only after further public hearings before the Planning Commission and the City Council of this City.

SECTION 5. The City Council hereby finds that the development proposal and agreement approved by this ordinance is compatible with the goals, objectives, policies, and land uses designated by the General Plan of the City of Morgan Hill.

SECTION 6. Authority is hereby granted for the City Manager to execute all development agreements approved by the City Council during the Public Hearing Process.

SECTION 7. Severability. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.

SECTION 8. Effective Date Publication. This ordinance shall take effect thirty (30) days after the date of its adoption. The City Clerk is hereby directed to publish this ordinance pursuant to §36933 of the Government Code.

The foregoing ordinance was introduced at the regular meeting of the City Council of the City of Morgan Hill held on the Day of February 2006, and was finally adopted at a regular meeting of said Council on the Day of February 2006, and said ordinance was duly passed and adopted in accordance with law by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:

ATTEST:

APPROVED:

Irma Torrez, City Clerk

Dennis Kennedy, Mayor

∞ CERTIFICATE OF THE CITY CLERK ∞

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Ordinance No. , New Series, adopted by the City Council of the City of Morgan Hill, California at their regular meeting held on the Day of February 2006.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk



CITY COUNCIL STAFF REPORT

MEETING DATE: *February 1, 2006*

APPEAL OF RESIDENTIAL DEVELOPMENT CONTROL SYSTEM PROJECT EVALUATION FOR APPLICATION MC-05-10: E. FIRST – SHIRAZ, FILED BY SHERMAN HOUSE ASSOCIATES

RECOMMENDED ACTION(S):

1. Conduct Appeal
2. Adopt Resolution affirming/modifying the Planning Commission Evaluation.

Agenda Item #15

Prepared By:

Planning Manager

Approved By:

**Community
Development Director**

Submitted By:

City Manager

EXECUTIVE SUMMARY: The City Council is being asked to consider an appeal of the Planning Commission's evaluation of a proposed residential development under the city's Residential Development Control System (Measure C). Projects are evaluated by staff and the Planning Commission according to the standards and criteria in 14 review categories contained in Sections 18.78.210 through 18.78.335 of the Measure C Ordinance. The highest scoring projects through this competitive process are eligible to receive a portion of the City's annual residential building allotment.

On January 10, 2006, the Planning Commission concluded the project evaluation phase of this year's Measure C competition for residential projects. Under Section 18.78.130 of the Measure C Ordinance, applicants may appeal the Commission's evaluation of their projects to the City Council. The Council may affirm or modify the allotment evaluation after conducting a hearing on the matter. Should the Council modify a project's evaluation; the adjusted score will be considered in the final project rankings and in the Planning Commission's decisions regarding the award of the Measure C building allotment. The Planning Commission is scheduled to make the final Measure C awards on February 14, 2006.

The attached staff report addresses the current appeal application. The appellant is appealing the Commission's evaluation for application MC-05-10: East First – Shiraz, and is seeking to raise the project's total score above the minimum necessary to be eligible to receive a building allocation. The Planning Commission's final project rating is 158.5 points. The minimum passing score to be eligible for a building allocation is 160 points out of a possible 200 points. The requested point increases in the Open Space, Public Facilities, Lot Layout and Natural and Environmental evaluation categories would raise the project score to 167.5

Staff recommends the City Council uphold or affirm the Planning Commission's evaluation in most categories. However it is recommended the Council modify the project's evaluation and award one additional point under the Lot Layout category.

The attached Planning Commission Staff Reports and Meeting Minutes for the December 13, 2005 and January 10, 2006 meetings provide background information on the Measure C evaluation process and the Planning Commission's actions.

FISCAL IMPACT: No budget adjustment required.

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL AFFIRMING AND MODIFYING PORTIONS OF THE PLANNING COMMISSION'S EVALUATION UNDER THE RESIDENTIAL DEVELOPMENT CONTROL SYSTEM FOR APPLICATION MC-05-10: E. FIRST – SHIRAZ IN THE FISCAL YEAR 2007-08 AND FISCAL YEAR 2008-09 COMPETITION.

WHEREAS, the City Council received one application appealing the January 10, 2006, Planning Commission evaluation of a proposed residential development pursuant to Chapter 18.78 of the Morgan Hill Municipal Code; and

WHEREAS, pursuant to Section 18.78.130 of the Municipal Code, the City Council serves as the appellate body in matters relating to the evaluation of projects under the Residential Development Control System; and

WHEREAS, the City Council conducted an appeal hearing for application MC-05-10: E. First – Shiraz under appeal application AP-06-01: E. First – Sherman House Associates at a meeting held on February 1, 2006; and

WHEREAS, the City Council has determined that the final scores should remain as approved by the Planning Commission in most categories, however, the final score should be modified in one category as set forth below; and

WHEREAS, testimony received at the appeal hearing, along with exhibits and drawings and other materials have been considered in the review process;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MORGAN HILL THAT:

SECTION 1: FINDINGS FOR APPEAL APPLICATION AP-06-01/MC-05-10: E. FIRST - SHIRAZ:

- A. The City Council finds that the Planning Commission correctly evaluated this project by not awarding the one point under Section B.1d of the Open Space category. The criterion did not apply because the cross connection between two private courtyards in adjoining projects did not provide access to a public park or open space beyond the project boundary as required. Moreover, in order for the point to be awarded, a public agency would have to provide written approval to allow access to the park or open space. The two courtyards are private open space areas requiring no public agency approval and are therefore not applicable to the criterion.
- B. The City Council finds that the Planning Commission correctly evaluated this project by awarding only one point under Section B.1e of the Open Space category. While the project was awarded two points for the same architectural commitments in last year's Measure C competition, the City Council finds that the one point assignment this year's competition is appropriate because last year's competition did not involve the property owner's companion project, which includes the demolition of the historic Farmer's Union building. While on separate parcels, this development and the adjacent Madeline project will be built together as one development and it is the inclusion of the Madeline project that changes the circumstance from a year ago and warrants the one point reduction from last year's score.

- C. The City Council upholds the Planning Commission's evaluation under Section B.2 of the Open Space category. The Council agrees that the applicant is entitled to five points and partial credit for the open courtyard space on the second floor podium level. However, because the courtyard is not open to the ground floor, the project is not entitled to receive the full 7 points requested.
- D. The City Council upholds the Planning Commission evaluation under Section B.2f of the Public Facilities category. Information regarding the cost estimate for public improvements or dedications in excess of project requirements was not included in the appellant's original application filing. To preserve the integrity of the competition process, new information that would enhance a project's score after the filing deadline should not be considered.
- E. The City Council finds that the project is entitled to one additional point under Section B.7 of the Lot Layout category. The City Council agrees that a reciprocal parking agreement with the adjacent Madeline project on Monterey Road will create an opportunity for shared parking and also finds that the criterion is met because the parking lot is located to the rear and is hidden behind ground floor commercial space.
- F. The City Council upholds the Planning Commission's evaluation under Section B.1d of the Natural and Environmental category. The City Council agrees with the Planning Commission's finding that the project does not restrict the amount of runoff caused by impervious surface because over 90 percent of the site is cover by building and pavement. The small amount of landscape area added is not sufficient to meet the intent of this criterion

PASSED AND ADOPTED by the City Council of Morgan Hill at a Regular Meeting held on the 1st Day of February, 2006 by the following vote.

AYES: **COUNCIL MEMBERS:**
NOES: **COUNCIL MEMBERS:**
ABSTAIN: **COUNCIL MEMBERS:**
ABSENT: **COUNCIL MEMBERS:**

🏛️ CERTIFICATION 🏛️

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Resolution No. , adopted by the City Council at a Regular Meeting held on February 1, 2006.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk



MEMORANDUM

To: CITY COUNCIL

Date: February 1, 2006

From: COMMUNITY DEVELOPMENT DEPARTMENT

**Subject: APPEAL OF RESIDENTIAL DEVELOPMENT CONTROL
SYSTEM PROJECT EVALUATION**

BACKGROUND

On January 10, 2006, the Planning Commission concluded the project evaluation phase of this year's Residential Development Control System (Measure C) competition for residential projects. Under Section 18.78.130 of the Measure C Ordinance, applicants may appeal the Commission's evaluation of their project to the City Council. The Council may affirm or modify the allotment evaluation after conducting a hearing on the matter. Should the Council modify a project's evaluation; the adjusted score will be considered in the final project rankings and in the Planning Commission's decision regarding the award of the Measure C building allotment.

Allotments must be issued no less than 16 months prior to the start of the first fiscal year in which the allotments will be used. For the Fiscal Year 2007-08 building allotment, the Planning Commission must award the allotment by March 1, 2006. To adhere to this deadline, the City Council will need to affirm or modify a project's evaluation at the February 1st Council meeting.

A total of 11 project applications were received for this year's Measure C competition. The applicant for one of the projects has appealed their project's evaluation to the City Council. The appellant, Manou Mobedshahi, representing Sherman House Associates, is appealing the Commission's evaluation for application MC-05-10: East First – Shiraz, and is seeking to raise the project's total score above the minimum necessary to be eligible to receive a building allocation. The Planning Commission's final project rating is 158.5 points. The minimum passing score to be eligible for a building allocation is 160 points out of a possible 200 points

Project Scoring Adjustments

Open Space, Section 18.78.220B.1d: The request is to be awarded one point.

Under criterion B.1d, a project can be awarded one point if it provides accessibility to existing or proposed public parks and open space areas outside the project boundary and encourages multiple use and fee dedication of open space areas adjacent to flood control right of ways and recharge facilities.

APPEAL OF MEASURE C PROJECT EVALUATIONS

Page 2

Points will only be awarded where the relevant public agency has provided written approval to allow access between the project and the aforementioned facilities.

Staff had recommended the project be awarded one point because cross access is proposed between this project and an adjacent 7-unit project on Monterey Road. The connection would allow residents in each development to access the open courtyard areas in each of the two projects. The applicant is requesting the one point for the same reason. The Planning Commission felt that the criterion did not apply because the cross connection to the two private courtyards did not provide access to a public park or open space beyond the project boundary. The Commission also noted that in order for a point to be awarded, a public agency would have to provide written approval to allow access to the park or open space. The two courtyards are private open space areas requiring no public agency approval and are therefore not applicable to the criterion. **No point adjustment is recommended.**

Open Space, Section 18.78.220B.1e: The request is to be awarded two points.

Under criterion B.1e, a project can be awarded up to two points where historical sites and landmarks on or adjacent to the project are maintained in as natural state as possible with limited supportive development such as parking facilities, fencing, signing, etc.

The Planning Commission awarded the project one point, agreeing that the proposed architecture will be compatible with the nearby 1905 Votaw Building and the Granada Theater. The full two points were not awarded because the project, and the property owner's companion project (Madeline's Vertical Mixed Use Project on Monterey Road), will require demolition of the historic Farmer's Union Building at the corner of East First Street and Monterey Road. As noted above, the intent of the criterion is to preserve historical sites and landmarks. While this score is consistent with other projects in the competition that did not preserve historical sites, the applicant points out in his January 17, 2006 appeal letter (attached), that the project was awarded two points for the same architectural commitments in last year's Measure C competition. Staff believes the one point assignment this year is appropriate because last year's competition did not involve the property owner's companion project, which includes the demolition of the historic Farmer's Union building. While on separate parcels, this development and the adjacent Madeline project will be built together as one development and it is the inclusion of the Madeline project that changes the circumstance from a year ago and warrants the one point reduction from last year's score. **No point adjustment is recommended.**

Open Space Section B.2: Seven points are requested.

Under criterion B.2 a project can receive up to nine points depending on the amount of building coverage. Building coverage is defined as that portion of the overall project master plan, exclusive of driveways and streets, which is covered by a building, parking lot or carport.

According to the applicant's project narrative, 90 percent of the project area is covered by the building. The project would receive zero points for this amount of building coverage. At the December 13, 2005 Public Hearing on this item, the applicant's representative argued that the building coverage consideration should take into account that the podium level courtyard space is open above. The Planning Commission agreed and directed staff to calculate the project's building coverage taking into account the size of the courtyard area. At the January 10 Planning Commission meeting staff reported

APPEAL OF MEASURE C PROJECT EVALUATIONS

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that subtracting the area of the courtyard, the project building coverage would equal 60 percent and the project would be eligible to receive seven points. It was the consensus of the Planning Commission that only partial credit should be given because the courtyard space was not open to the ground level. The Commission awarded the project five points. The applicant believes the project should be entitled to full credit for the podium level courtyard and should be awarded seven points.

Staff believes the Commission was liberal in awarding the project five points because the building coverage, as defined in the criterion is actually 90 percent, which would result in the project receiving zero points. **No point adjustment however, is recommended.**

Public Facilities, Section 18.78.240B.2f: Three additional points are requested.

Projects that provide public facility or pedestrian improvements from a city-approved list or improvements on or adjacent to the project in excess of standard requirements, e.g., sewer and traffic control, can receive up to four points. In the Downtown Area, these improvements can include pedestrian amenities such as lighting, planters that function as seating, seating and railings to lean on, refuse and recycling bins, public art and gateway features consistent with the Downtown Plan.

The Planning Commission awarded the project one point. The applicant is requesting the maximum four points for providing public art (building murals), two new city recycling bins, and sidewalk lighting. The applicant did not provide a cost estimate for the value of these improvements. Public Works staff estimated the value of the improvement, based on testimony provided by the project architect at an interview held on December 7, 2005, at \$1,500 per unit. Under this criterion, the cost of the offered public improvements and dedications shall be equal to or greater than \$1,100 per unit per point. To receive the maximum four points, the cost of the public improvements or dedication would need to equal \$4,400 per unit. The applicant presented information at the December 13, 2005 public hearing that estimated the cost of these improvements is \$5,023 per unit. Consistent with their policy in all prior RDCS competitions, the Planning Commission indicated that the cost estimate presented on December 13 was new information that was received after the October 3, 2005 filing deadline and therefore could not be considered. To preserve the integrity of the competition process, the Commission's policy is not to accept new information that would enhance a project's score after the filing deadline. Applicants for other projects in this year's competition that requested the same points did provide a cost estimate with their October 3rd application filing. Staff notes that while the actual cost of the improvements may be greater than the staff estimate, the figure does include improvements that would not be in excess of standard requirements and should not be included in the total. **No point adjustment is recommended.**

Lot Layout and Orientation, Section 18.78.290B.7: One point is requested.

Under this criterion, Downtown Area Projects will receive one point for providing shared parking and or rear parking lots.

At their January 10 meeting, Commissioner Lyle noted that this project was not providing on-site share parking. The shared parking was available through a reciprocal parking agreement with the Madeline project on Monterey Road. The Commission agreed and subtracted one point and lowered the total category score from 13 to **12** points. The applicant believes the Commission's action was contradictory because the Commission acknowledged that shared parking was being provided through

APPEAL OF MEASURE C PROJECT EVALUATIONS

Page 4

a reciprocal parking agreement. Staff agrees that a reciprocal agreement will create the opportunity for shared parking.

The applicant also feels the criterion is met because the parking lot is located to the rear. From either entrance off of First Street or Second Street, the parking is hidden behind ground floor commercial space. Staff agrees this arrangement meets the intent of the criterion. **Staff recommends the project be awarded one point under criterion B.7 and that the total category score be increased from 12 points to 13 points.**

Natural and Environmental, Section 18.78.330B.1b: One point is requested.

Under this criterion, a project can receive one point if the site plan restricts the amount of runoff caused by impervious surface area and the covering of land suitable for percolation where applicable.

The Planning Commission did not award the one point noting that more than 90 percent of the site is covered by building and pavement and therefore will not restrict the runoff. The applicant, in his Project Narrative, requested one point because new pervious areas would be added for landscaping. The existing surface parking lot is entirely paved. Staff and the Commission agreed that the small amount of landscape area added is not sufficient to meet the intent of this criterion.

In the attached January 17, 2006 appeal letter, the applicant's architect indicates that storm water runoff would be restricted through on-site retention in the courtyard fountain and then directed to the City's storm drain system. This is new information that was not included in the original application filing and contradicts information in the project narrative under the Public Facilities category where it is stated that *"There is no need for onsite retention. The site was a parking lot and is adjacent to existing drainage."* **No point adjustment is recommended.**

RECOMMENDATION

Adopt Resolution modifying the Planning Commission evaluation under the Lot Layout category and affirming the Planning Commission's scoring of the evaluation categories as set forth in Section 1 of the attached Resolution.

Attachments

Resolution affirming and modifying the Planning Commission Evaluation

Appeal Letter

Project Narrative

Planning Commission Minutes of 1/10 /06

Planning Commission Staff Reports dated 12/13/05 and 1/10/06



CITY COUNCIL STAFF REPORT

MEETING DATE: February 1, 2006

TITLE: Memorandum of Understanding between City and American Anchorpoint Academies, Oak Meadow Plaza, et al. regarding joint submittal of an application that would result in implementation of Urban Limit Line / Greenbelt Study recommendations for DeWitt/Edmundson area.

RECOMMENDED ACTION: Direct the Mayor to execute the Memorandum of Understanding on behalf of the City Council.

EXECUTIVE SUMMARY:

In June of last year, the City Council reviewed the Final Advisory Committee Report for the Urban Limit Line / Greenbelt Study. The Council directed staff to prepare an environmental evaluation of the recommendations and draft General Plan amendments that would implement the Study. That evaluation and the amendments will be considered by the Council in April.

The Final Advisory Committee Report contains a number of recommendations for use of the 118-acre property located west of Sunset Rd., north of Edmundson Ave. and east of DeWitt Ave, commonly referred to as the Anchorpoint property. In summary, the recommendations call for the following:

- Designation of approximately 20 acres adjacent to Sunset Rd. for residential development at a density of three units per acre and inclusion of the property into the UGB, USA and annexation into the city limits.
- Construction of four houses on existing lots on Edmundson, two of which would be built north of a knoll and not be visible from that road. These lots would remain unincorporated.
- Establishment of open space easements over approximately 84 of the 118 acres, prohibiting future development of the land.

Attached, as Exhibit A, is a non-binding Memorandum of Understanding (MOU) between the City and Anchorpoint and others under contract to purchase parts of the Anchorpoint 118-acre property. The MOU sets forth in detail the expectations and responsibilities of Anchorpoint and the City for defining and submitting an application that would result in implementation of the recommendations of the Final Report. The MOU is consistent with the recommendations of the Final Report with the exceptions and clarifications identified in the attached Exhibit C. Also attached, as Exhibit B, is a map showing proposed house locations and areas to receive open space easements.

FISCAL IMPACT:

No budget adjustment required.

Agenda Item #16

Prepared By:

Contract Planner

Approved By:

**Community
Development Director**

Submitted By:

City Manager

EXHIBIT A

PREDEVELOPMENT MEMORANDUM OF UNDERSTANDING REGARDING CERTAIN UNDEVELOPED PROPERTY LOCATED ON SUNSET, EDMUNDSON AND DeWITT IN UNINCORPORATED SANTA CLARA COUNTY

This Memorandum of Understanding (hereafter "MOU") is dated and effective this _____ day of _____, 2006 by and between the City of Morgan Hill, a municipal corporation (hereafter, "City") and Oak Meadow Plaza LLC, a California limited liability company (the "Sunset Owner"); Bethany S. Liou, MH Development Group LLC, a California limited liability company, and Dr. Steven Spisak and Raylene Spisak (sometimes collectively the "Edmundson Owners"); and American Anchorpoint Academics, Inc., a California corporation (the "DeWitt Owner"). The Sunset Owner, Edmundson Owners and DeWitt Owner are sometimes hereafter collectively referred to as the "Owners".

Recitals

1. Description of Owners' and City's Property. Owners collectively own 117.5 acres of land located in unincorporated Santa Clara County, sometimes hereafter collectively referred to as "Subject Property". Sunset Owner owns four parcels located on or near Sunset Road, being Lots 39, 40, 52 and 53 as depicted on the map (the "Map") attached hereto as Exhibit A. Bethany S. Liou owns the parcel depicted on the Map as Lot 51. MH Development Group LLC owns two parcels depicted on the Map as Lots 48 and 50. The Spisaks own a parcel depicted on the Map as Lot 49. An approximately 35 acre portion of the Subject Property consisting of Lots 39, 40, and portions of Lots 51, 52 and 53 is sometimes collectively referred to as the "Sunset Property". A small portion (0.52 acres) of Lots 39 and 40 is already annexed to the City of Morgan Hill, and is within the City's Urban Growth Boundary, Urban Limit Line, and Urban Service Area. An approximately 53 acre portion of the Subject Property consisting of Lots 48, 49, 50 and portions of Lots 51, 52 and 53 is sometimes collectively referred to as the "Edmundson Property". The DeWitt Owner owns three parcels comprising approximately 29 acres and depicted on the Map as Lots 36, 37 and 38 (the "DeWitt Property"). City owns the roughly 36 acre parcel depicted on the Map as Lot 41 (the "City Property").

2. Description of Current Land Use Designations. The Subject Property is currently designated "Hillside" by the County of Santa Clara General Plan's Land Use and Circulation Element and is zoned "HS-Hillside". The Subject Property is located within the City's sphere of influence. The 0.52 acre portion of Lots 39 and 40 already annexed to the City is currently designated Single Family Low by the City's General Plan.

3. Purpose. The purpose of this MOU is to provide for a mutual understanding of Owners' and City's expectations for submittal of a joint application for ultimate development of the Subject Property and a portion of the City Property involving the development of homes and establishment of permanent open space easements. This MOU addresses the processing of a series of applications relating to possible development of the Subject Property, including applications for necessary annexation of a portion into the City and a portion of that portion into

City's Urban Service Area and Urban Growth Boundary, General Plan and Zoning Map amendments, Measure C, subdivision, and environmental review. While the anticipated densities of development for the Sunset Property, Edmundson Property and DeWitt Property differ from each other, and hence the proposed development of those properties is addressed separately in Section 4, the parties recognize and acknowledge that the development of the various parts of the Subject Property is interrelated, and it is the desire of the parties hereto that, except for approval of the Measure C allocations and described below, either all of the below-described rights and obligations would be created, or none of them would be created.

4. Development of the Subject Property.

A. Development Goals and Limitations.

As an overview, the Owners desire to develop residential units on certain portions of the Subject Property and the City seeks to secure open space easements over the remainder of the Subject Property to ensure that no further development would occur beyond that described in this Section 4.A. The contemplated goals and limitations for each of the Owners regarding their respective properties are as follows:

(i) Regarding the Sunset Property:

(a) After completion of a lot line adjustment by the Sunset Owner and Bethany S. Liou to segregate the Sunset Property from the Edmundson Property, the City would amend the Urban Growth Boundary and locate the Urban Limit Line to include the 19.99 acres of the Sunset Property indicated on the Map, which 19.99 acres consist solely of land with a slope of 12.5 percent or less.

(b) The City would apply to LAFCO for annexation of the entire Sunset Property (except the 0.52 acre portion already annexed to City), and inclusion of the newly annexed 19.99 acre portion in the Urban Service Area.

(c) The 19.99 acres would be designated by City on the City's General Plan diagram as Single Family Low, limiting development to a maximum of three residential units per acre.

(d) The Sunset Owner and Bethany S. Liou would jointly apply for development allocations for the 20.51 acre portion pursuant to Measure C, and would provide in those applications (a) for a height restriction on all homes proposed to be constructed on the portion of Lot 51 included in the 20.51 acres to the effect that the maximum elevation of those homes would not exceed the maximum elevation of the immediately adjacent homes on Lot 52, measured from sea level, and (b) that no structures other than fences and landscaping features would be constructed on the portion of the 20.51 acres with a slope in excess of 10%.

(e) The other approximately 14 acres of the Sunset Property would remain undeveloped and have a permanent open space easement recorded over them. The City would confirm in writing at the time the General Plan Amendment and Urban Growth Boundary alteration applications are acted upon, if such applications are approved, that the Sunset Owner and Bethany S. Liou would be eligible to receive (a) points pursuant to Sections 18.78.220.B, 18.78.230.B.3, and 18.78.330.B.1.e and 2.b. of Measure C (as presently codified) for permanently preserving in open space these approximately 14 acres, and (b) TDCs pursuant to Section 18.44.160 of the MHMC for permanently preserving in open space the portion of the approximately 14 acres with slopes exceeding 20%.

(ii) Regarding the Edmundson Property:

(a) The City would not object to the construction of one home on each of the four Lots, provided that the homes are located in the building envelopes indicated on the Map and that the homes on Lots 48 and 49 are generally not visible from Edmundson Avenue. The Edmundson Owners would provide copies of relevant documents to the City prior to submission of those documents to the County to allow City to confirm compliance with these restrictions. The Lot 50 home would be located just westerly of the existing home on Lot 51 (which would be demolished), and the Lot 51 home would be located just east of the existing home on Lot 51 (which would be demolished).

(b) The Edmundson Owners would make their best reasonable efforts to obtain County approval for access to the homes on Lots 48 and 49 to be taken from DeWitt Avenue, as described in Section 4.A.(iii).(c), below, including keeping City fully informed of the progress of the applicable County development applications so that City would have the ability to participate in advocating that access to these homesites be taken from DeWitt Avenue. Access from Edmundson Avenue for these two parcels would only be allowed if access from DeWitt Avenue is found to be infeasible by the County.

(c) A permanent open space easement would be recorded over approximately 80% of each of the four parcels (a combined approximately 43 acres as generally reflected on the Map), protecting the knoll/ridge line and covering the entire Edmundson Avenue frontage of Lots 48 and 49.

(iii) Regarding the DeWitt Property:

(a) The City would convey by lot line adjustment the roughly 5 acre portion of Lot 41 depicted on the Map to the DeWitt Owner, in exchange for conveyance by lot line adjustment of an equal amount of the acreage of Lot 38 depicted on the Map from the DeWitt Owner.

(b) The DeWitt Owner would merge this resulting 29 acres into one parcel (The "Modified DeWitt Parcel"), and City would not object to the construction of a home on the portion of the parcel conveyed to the DeWitt Owner by the City, provided that the

home shall be located in the area indicated on the Map and shall generally not be visible from DeWitt Avenue.

(c) The DeWitt Owner (and the owners of Lots 48 and 49 if they will be using the driveway as described below) would construct a driveway on the modified City Property in approximately the location of the existing dirt road which leads to the City's water tank. All improvements within the easement area would be subject to approval by the City through its Public Works Director, which approvals would not be unreasonably withheld or delayed. The driveway would serve the new home to be built on the Modified DeWitt Parcel, the water tank, and the homes on Lots 48 and 49 of the Edmundson Property, as described above. City would grant residential access easements to the owners of the Modified DeWitt Parcel and Lots 48 and 49 to provide a connection between these properties and DeWitt Avenue. The City would enter into an agreement with the owners of Lots 48, 49 and the Modified DeWitt Parcel establishing an equitable sharing of the costs of maintenance of the shared driveway, but the City would not be responsible for any costs incurred in constructing the shared driveway or in constructing or maintaining any electronic gate desired by the other owners utilizing the shared driveway.

(d) A permanent open space easement would be recorded, encumbering the Modified DeWitt Parcel except for approximately 2.5 acres for the building envelope.

B. As to the Open Space Easements Described in Section 4.A., above:

(i) The Owners would record permanent open space easements, bearing language acceptable to both Owners and City, on their parcels as provided above, within one year of the City Council's approval of the inclusion of the 19.99 acre portion of the Sunset Property within the Urban Growth Boundary, or by the effective date upon which the Sunset Property is formally included in the Urban Service Area, whichever occurs first. Should the easements not be recorded within that time period, or should LAFCO reject annexation of the Sunset Property (except the 0.52 acre portion already annexed to City) into the City limits and/or the 19.99 acre portion into the City's Urban Service Area, or should development occur inconsistent with the intent of this MOU, then the 19.99 acre area would be removed from the Urban Growth Boundary and, if applicable, the Urban Service Area. Approval of housing allocations for the Sunset Property pursuant to the Measure C process would not be a precondition to granting of the permanent open space easements.

(ii) The permanent open space easements placed on the Edmundson and DeWitt Properties would prohibit construction of structures and would also prohibit grading beyond that which is necessary for normal hillside agricultural operations. Agricultural operations typically found on hillsides, such as grazing and viticulture would be allowed. The permanent open space easement placed on the approximately 14 acre portion of the Sunset Property would be more restrictive, prohibit structures, motorized recreational vehicles and grading, and allowing only private recreational use, including

hiking, running, bird watching and similar activities.

(iii) Notwithstanding the fact that the open space easements are referred to herein as "permanent", the open space easements placed on the Subject Property would provide that, in the event the 19.99 acres of the Sunset Property is removed from the Urban Growth Boundary after the easements are recorded, all of the open space easements on the Subject Property would terminate and be of no further force or effect.

(iv) The permanent open space easements and other limitations on the Edmundson Property and DeWitt Property would provide the required community benefit for inclusion of the 19.99 acre portion of the Sunset Property in the Urban Service Area as "infill development" pursuant to Measure C.

5. Submittal of Applications. Owners, City, their agent(s) or successors in interest shall submit to City on City's standard application forms, applications with all supplementary information, fees and documents required by City to process the same, for the developments described in Section 4 (excluding the LAFCO application, which shall be prepared and submitted by City, with fees paid by the Sunset Owners).

6. Processing Costs. Owners shall pay City regarding submittal of any applications, the costs customarily charged by City for processing such applications, including the cost for environmental review but not including the cost of environmental review associated with the approval of the Urban Limit Line Committee recommendations, which costs shall be borne by City.

7. Development Agreement. A Development Agreement pursuant to Government Code Section 65864 et seq., with an anticipated term of at least 10 years would be prepared and executed in connection with any development approvals of the Subject Property. It is also anticipated that the development agreement would be in general accord with the terms contained in this Memorandum of Understanding as well as contain other such terms as are agreed upon by the parties to the agreement.

8. Limitations. This MOU requires the City to process and take future action on development requests for which completed applications have been submitted relating to the subject property. The parties acknowledge and agree that execution of this MOU by City does not alter the application of CEQA to development of the Subject Property, nor alter the discretion of the City, the City Council, the City Planning Commission or any department, agency, employee or instrumentality of the City to determine whether to enact the ordinances, adopt resolutions or grant the entitlements required to accomplish any of the actions set forth in Paragraph 4, herein or to make any of the findings required in order to do so. By entering into this MOU, neither Owners nor City shall obtain from each other any right or entitlement, nor shall either obtain from the other any expectancy other than specifically set forth herein.

9. Termination. This MOU shall terminate when all development contemplated in Section 4, above, has been completed, or may be terminated by the City or Owners upon 60 day written notice to the other.

10. Assignment. The MOU is assignable by the Owners to any successor in interest.

11. Notices. Any notice to be served on the City shall be served upon it at City Hall, 17555 Peak Avenue, Morgan Hill, CA 95037. Any notice to be served on the Owners shall be served upon them c/o Bethany Liou at Oak Meadow, P.O. Box 2610, Cupertino, CA 95015 and Steve White at P.O. Box 65, Gilroy, CA 95021.

12. Authority. Each person signing this MOU on behalf of an entity represents that he or she is authorized to execute this MOU and bind such entity to the terms hereof.

CITY OF MORGAN HILL, a municipal
corporation

By: _____
Mayor

Attest

By: _____
City Clerk

APPROVED AS TO FORM:

By: _____
City Attorney

OWNERS

Oak Meadow Plaza LLC,
a California limited liability company

By: _____
Bethany S. Liou, Managing Member

MH Development Group, LLC
a California limited liability company

By: _____
Bethany S. Liou, Managing Member

American Anchorpoint Academics, Inc.
a California corporation

By: _____
Stephen White, President

Bethany S. Liou

Dr. Steven Spisak

Raylene Spisak

*Lands of
Oak Meadow
Plaza, LLC*

Exhibit 'A' to M.O.U.

LEGEND

PROPOSED LOT LINE

OPEN SPACE EXISTENCE (TOTAL = 75.71 AC)
15.53 acres TOTAL = 20% SLOPE

EXISTING LOT LINES

BUILDING FOOTPRINT
AND DRIVEWAY

ORIGINAL LOT NUMBERS

LOT BOUNDARY

PROPOSED AREA TO BE INCLUDED
IN ANNEXATION.

PROPOSED AREA TO BE INCLUDED
IN UOB AND UDA.

CITY LIMIT LINE (OLL)

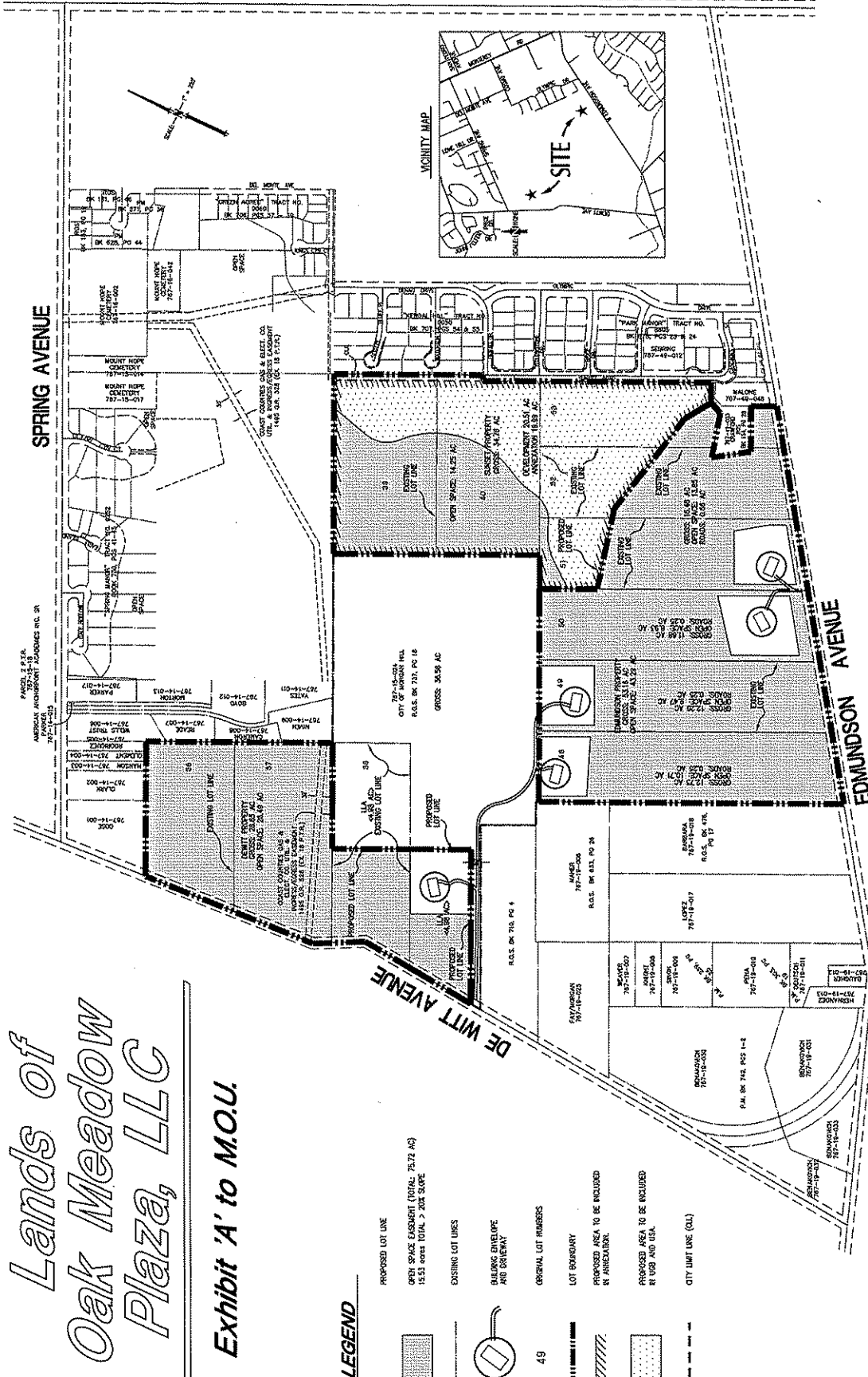


Exhibit C

CLARIFICATIONS AND EXCEPTIONS TO FINAL REPORT RECOMMENDATIONS

DeWitt Ave. Property

Anchorpoint owns approximately 29 acres on DeWitt Ave. The recommendations of the Final Report provide that an open space easement be recorded over the entire area and that no houses be allowed. At the June City Council meeting, Anchorpoint representatives requested the recommendations of the Final Report be modified to allow for the possible construction of one house on the 29-acre area. The Council approved that request, directing staff and Anchorpoint to further investigate the possibility of constructing a house in this area in a location that would not be visible from DeWitt Ave.

Staff and Anchorpoint representatives have identified an area on the City-owned 38-acre water reservoir site where a house could be constructed that would not be visible from DeWitt Ave. Construction of a house in that location would require an exchange of approximately 5 acres between the City and Anchorpoint. Access to the parcel would be from the road serving the reservoir. This road would also serve two additional houses to be located at the northern end of two Edmundson parcels (discussed below). The Public Works Department does not object to the land exchange or provision of access to the three proposed houses, subject to conditions contained in the MOU.

Access to Two Westerly Edmundson Properties

The Final Report recommends that the houses on the two more westerly Edmundson properties be located north of the knoll where they would not be visible from Edmundson Ave. The Report further recommends that, in order to avoid construction of driveways to these houses from Edmundson, access be taken from an extension to the access road serving the City water reservoir. The Final Report recommends that access to these two parcels be allowed from Edmundson Ave. only if access from the reservoir road is determined to be infeasible by the City Planning Commission. The MOU provides for that determination to be made by the County, with input from the City.

Slope of Sunset Property

The Final Report recommends the Urban Growth Boundary (UGB) be expanded to include a maximum of 20 acres of land on the west side of Sunset Road and that all of the land included within the UGB must have a slope of less than 10 percent. MH Engineering has found that approximately 19 acres of land in this area has slopes of less than 10 percent. The MOU proposes including 20 acres of land within the UGB. The additional acre has slopes between 10 and 12.5 percent.

Elimination of Open Space Easements

The Final Report includes a recommendation that open space easements be recorded within one year of inclusion of the 20-acre Sunset Rd. property within the UGB. That recommendation does not address the status of the easements should the Sunset property not be annexed due to City or LAFCO action. The MOU provides for elimination of the easements should the property not be annexed.



CITY COUNCIL STAFF REPORT

MEETING DATE: *February 1, 2006*

DRAFT BALLOT LANGUAGE FOR A JUNE 6, 2006 SPECIAL ELECTION

RECOMMENDED ACTION(S): Review Draft Ballot Measure Relating to the Removal of the "Grocery Supermarket" Restriction from the Cochrane Plaza Shopping Center

EXECUTIVE SUMMARY:

At the meeting of December 14, 2005, the City Council directed the City Attorney and Planning staff begin the process for placing a measure on the June 6, 2006 ballot that would remove the "grocery supermarket" restriction from the Cochrane Plaza Shopping Center. To this end, staff has drafted a ballot measure for Council consideration. Staff requests that the Council provide any recommended corrections, additions, and/or deletions to the ballot language and to the "**Whereas**" clauses, as deemed appropriate. It is staff's intent to return to the Council on March 1, 2006 with the modified ballot language for Council consideration. Staff will also return on March 1, 2006 with a resolution requesting consolidation and assistance with the June 6, 2006 Special Election from the Santa Clara County Board of Supervisors.

Planning staff anticipates that the CEQA review for this ballot measure will be completed in time for Council consideration on March 1, 2006 as well.

March 10, 2006 is last day jurisdictions can file a resolution calling for a June 6, 2006 measure election. As March 1, 2006 is the last regular council meeting before the March 10 deadline, staff is initiating the ballot measure discussion in order to allow the Council and staff sufficient time to proceed with adoption of the appropriate resolutions calling for a special election for June 6, 2006.

FISCAL IMPACT: The estimated cost for a June 6, 2006 special ballot measure election is approximately \$49,000. Staff did not budget for election costs in the Fiscal Year 2005-06 Budget under the Elections Division budget. Should the Council move forward with a June 6, 2006 ballot measure, staff will need to return to the Council requesting appropriation from the General Fund reserves.

Agenda Item #17

Prepared By:

Council Services &
Records Manager

Approved by:

Interim City Attorney

Submitted By:

City Manager

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL, CALIFORNIA CALLING AND GIVING NOTICE OF THE HOLDING OF A SPECIAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, JUNE 6, 2006 FOR SUBMITTAL TO THE VOTERS OF A BALLOT MEASURE TO REVISE ORDINANCE NO. 835, NEW SERIES TO ELIMINATE THE PROHIBITION ON GROCERY SUPERMARKETS IN THE MORGAN HILL BUSINESS PARK.

WHEREAS, Measure B was approved by the citizens of Morgan Hill at a special election held on September 22, 1987; and

WHEREAS, Measure B amended the City of Morgan Hill's General Plan to provide for the establishment of a new commercial services standard and amending the Planned Unit Development Agreement established by Ordinance No. 545, N.S., and related development plan for the Morgan Hill Business Park; and,

WHEREAS, the City Council of the City of Morgan Hill put Measure B into affect on October 9, 1987 in the adoption of Ordinance No. 835, N.S.; and

WHEREAS, the City Council of the City of Morgan Hill would like to submit a ballot measure to amend Ordinance No. 835 N.S. that would amend the Morgan Hill Business Park PUD (located at the southwest corner of Cochrane Road and Highway 101) to permit grocery supermarkets to locate within the Cochrane Plaza Shopping Center; and

WHEREAS, the City Council of the City of Morgan Hill, California, finds that lifting the restriction that prohibits grocery supermarkets at Cochrane Plaza Shopping Center will enhance the economic viability of expanding the permitted use;

Whereas, as Ordinance No. 835 N.S. may only be changed by a vote of the citizens of Morgan Hill; and

WHEREAS, under the provisions of the laws relating to general law cities in the State of California, a Special Municipal Election shall be held on Tuesday, June 6, 2006, for the submittal of such a ballot measure to the voters.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MORGAN HILL, CALIFORNIA, DOES RESOLVE AS FOLLOWS:

SECTION 1. Pursuant to the requirements of the laws of the State of California relating to General Law Cities, there is called and ordered to be held in the City of Morgan Hill, California, on Tuesday, June 6, 2006, a Special Municipal Election for the purpose of submitting to the voters a ballot measure to amend the General Plan Land Use category and commercial services standard of the Morgan Hill Business Park PUD to permit grocery supermarkets within the Cochrane Plaza Shopping Center.

DRAFT

SECTION 2. Pursuant to the requirements of the State of California, at the Special Municipal Election on Tuesday, June 6, 2006, the following question shall be submitted to the voters:

Do the Citizens of the CITY OF MORGAN HILL, CALIFORNIA ordain that Ordinance 835 N.S. Section II A. 3, regarding the Morgan Hill Business Park, and specifically Cochrane Plaza, be amended to remove the prohibition on grocery supermarkets?	YES
	NO

and

SECTION 3. That the text of the ballot measure is attached to this resolution as Attachment A.

SECTION 4. The ballots to be used at the election shall be in the form and content as required by law.

SECTION 5. That the polls for the election shall be open at seven o'clock a.m. of the day of the election and shall remain open continuously from that time until eight o'clock p.m. of the same day when the polls shall be closed, except as provided in §14401 of the Elections Code of the State of California.

SECTION 6. That the City Clerk is authorized, instructed and directed to procure and furnish any and all official ballots, notices, printed matter and all supplies, equipment and paraphernalia that may be necessary in order to properly and lawfully conduct the election.

SECTION 7. That in all particulars not recited in this resolution, the election shall be held and conducted as provided by law for holding municipal elections.

SECTION 8. That notice of the time and place of holding the election is given and the City Clerk is authorized, instructed and directed to give further or additional notice of the election, in time, form and manner as required by law.

SECTION 9. That the City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original Resolutions.

DRAFT

PASSED AND ADOPTED by the City Council of the City of Morgan Hill at a regular meeting held on the ___ day of _____, 2006 by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:

ATTEST:

Irma Torrez, City Clerk

Dennis Kennedy, Mayor

☞ CERTIFICATION ☞

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Resolution No. _____, adopted by the City Council at a Regular Meeting held on _____, 2006.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk



CITY COUNCIL STAFF REPORT

MEETING DATE: *February 1, 2006*

Agenda Item # 18

Prepared By:

**Asst. to the City
Manager**

Submitted By:

City Manager

LEASE WITH CROWN CASTLE, INTERNATIONAL, FOR CELLULAR INSTALLATIONS AT NOB HILL WATER TANK SITE

RECOMMENDED ACTION:

Authorize City Manager to execute lease agreement with Crown Castle, International for existing and future cellular installations on the Nob Hill Water Tank Site.

EXECUTIVE SUMMARY:

The City of Morgan Hill has allowed cellular facility installations at the Nob Hill Water Tank site since 1995. Currently, both Sprint and Verizon operate facilities on this site. Verizon's lease with the City was assumed by Crown Castle International, a worldwide cellular property management company. The lease for that site expired on October 25, 2001. Since that time, Verizon (under Crown Castle's property management) has continued to operate on the site under a month-to-month extension of the lease terms. The City currently receives \$15,000 annually under the terms of the prior lease for this facility.

For over a year, staff have negotiated with Crown Castle representatives to replace the expired lease with a longer-term lease which provides better legal protections and usage terms for the City, as well as additional income. The proposed agreement increases annual revenue to \$18,000 for the Verizon installations, with increases each year by 4% or CPI, whichever is greater. The lease term is for five years, with two additional five-year extensions allowed. The agreement also allows Crown Castle to locate up to three additional cellular carriers on the Nob Hill site, with the City receiving 50% of the revenue for each additional carrier. Any such installations would go through the current Conditional Use Permit process which would evaluate the visual impact of additional carriers on the site as well as the extent to which the proposed installation meets City building requirements.

Staff believe that there are advantages to the City in having a master lease for the site, rather than negotiating individual leases for each potential carrier. In addition, having a single property manager will increase the likelihood that future new carriers could share poles and equipment buildings, thus reducing the footprint on the site and, potentially, the visual impact related to antenna installation.

It is important to note that this agreement does not change the process by which a cellular installation is reviewed by the City. Currently, all proposed installations, whether on public or private property, must receive a conditional use permit. In this agreement, Crown Castle specifically acknowledges that any new installations on the Nob Hill Water Tank site would be required to go through the City's planning and permitting processes. As part of their 2005/06 workplan, the Planning Division will be evaluating the changes to the review process for cellular facilities.

On January 23, 2006, the Utilities and Environment Committee reviewed the proposed agreement and recommended Council approval.

FISCAL/RESOURCE IMPACT: The additional revenue is included in the FY 2005/06 budget. If additional installations are approved over time, the City would receive 50% of the lease revenues from each additional installation.

**EXCLUSIVE INSTALLATION AND PROPERTY USE AGREEMENT BETWEEN THE
CITY OF MORGAN HILL AND
CROWN CASTLE GT COMPANY LLC**

This EXCLUSIVE INSTALLATION AND PROPERTY USE AGREEMENT ("Agreement") is made and entered into by and between the CITY OF MORGAN HILL, a municipal corporation ("CITY"), and CROWN CASTLE GT COMPANY LLC, a Delaware limited liability company, ("COMPANY"), upon July 1, 2005 ("EFFECTIVE DATE").

RECITALS

WHEREAS, CITY is the owner of that certain real property located at Nob Hill, having Assessor's Parcel Numbers 767-08-008, and 767-08-011, located in Santa Clara County, Morgan Hill, California, more particularly described on the "Property Description," attached hereto as Exhibit A and incorporated herein by this reference ("PROPERTY"); and

WHEREAS, COMPANY is the Tenant under that certain Land Lease Agreement dated September 6, 1995, between the CITY and GTE Mobilnet of California ("Original Lease"), which expired October 25, 2001, and has been renting portions of the Property on a month-to-month basis upon the terms and conditions set forth in Section 12 of the Original Lease; and,

WHEREAS, COMPANY has constructed and installed at no cost to CITY certain telecommunications facilities and appurtenant structures on PROPERTY owned by CITY to provide its services, which services are more particularly described in Exhibit B, attached hereto and incorporated herein, ("SERVICES") in and around CITY, and,

WHEREAS, in order to provide SERVICES, COMPANY desires to obtain from CITY and CITY desires to grant to COMPANY the right to use certain portions of the PROPERTY, which portions are further described in Exhibit C (the "LICENSED AREAS"), which is attached hereto and incorporated herein, for the purposes of installing, maintaining and operating a telecommunication facility and associated equipment to provide SERVICES, which antenna and associated equipment are more particularly described on the "Telecommunications Facility Description" attached hereto as Exhibit D and incorporated herein ("TELECOMMUNICATIONS FACILITY"); and

WHEREAS, CITY desires to have the SERVICES available in CITY in accordance with the terms and conditions contained in this AGREEMENT.

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

SECTION 1. RIGHT TO USE CITY PROPERTY.

A. Right to Use. CITY hereby grants COMPANY the right to use the LICENSED AREA on an exclusive basis, for the purpose of installing, maintaining and operating the TELECOMMUNICATIONS FACILITY to provide SERVICES and for no other purpose.

B. Access.

1. COMPANY and COMPANY'S sub-licensees ("Sub-licensees") will be given reasonable access to the LICENSED AREA between the hours of 6:00 a.m. and 6:00 p.m. to repair or maintain the LICENSED AREA, including the telecommunications facility, antennas, and associated equipment, provided COMPANY provides CITY with at least one (1) hour verbal notice of the times that COMPANY will need access to that portion of the LICENSED AREA located on the PROPERTY. Such notice will be given to the Police Support Services Supervisor, or his/her designee. To obtain access to the site, a COMPANY employee or authorized vendor must obtain a key to the LICENSED AREA on the PROPERTY by appearing at the Police Department, located at 16200 Vineyard Boulevard, and providing proper identification to the Police Support Services Supervisor, or his/her designee.

2. If COMPANY desires access to the site for the purposes of construction, demolition, or any repair that requires more than two vehicles and more than eight (8) hours of on-site work, COMPANY will be given reasonable access provided COMPANY provides CITY with at least five (5) days prior written notice of the times that COMPANY will need access to that portion of the LICENSED AREA located on the PROPERTY and at least forty-eight (48) hours' actual prior oral notice to CITY of the times that COMPANY will need access to any other portion of the LICENSED AREA or PROPERTY. The CITY'S Senior Building Inspector/Facilities Maintenance Coordinator shall be CITY'S contact for these purposes, unless CITY otherwise indicates in writing. To obtain access to the site, a COMPANY employee or authorized vendor must obtain a key to the LICENSED AREA on the PROPERTY by appearing at the Police Department, located at 16200 Vineyard Boulevard, and providing proper identification to the Police Support Services Supervisor, or his/her designee.

3. If an emergency repair of the LICENSED AREA, including the telecommunications facility, antennas, and associated equipment is necessary, COMPANY will be allowed emergency access to the LICENSED AREA between 6:00 p.m. and 6:00 a.m., provided that COMPANY notifies the Police Support Services Supervisor prior to entering the LICENSED AREA.

The CITY shall provide COMPANY with the phone number of the Police Support Services Supervisor, which number shall permit contact with the Police Support Services Supervisor, or his/her designate, twenty-four hours per day.

4. COMPANY shall allow a representative of the CITY to observe any repair, maintenance or removal work performed at the LICENSED AREA or any other portion of the PROPERTY.

C. Relocation and Removal.

1. At any time after the Initial Term of this AGREEMENT, CITY may require relocation of the TELECOMMUNICATIONS FACILITY to a location designated by CITY, provided that CITY shall provide COMPANY with a one hundred and twenty (120) day prior written notice that the TELECOMMUNICATIONS FACILITY must be relocated.

2. If COMPANY fails to relocate the TELECOMMUNICATIONS FACILITY or repair or restore the affected areas of the LICENSED AREA and PROPERTY within the one hundred and twenty (120) day period, as that period may be extended as provided in this SECTION, City Manager, in his or her sole discretion and without limitation with respect to any other rights or remedies which the CITY may have, may terminate this AGREEMENT, effective no earlier than seven (7) days after the date of notice of termination, and CITY may remove any of COMPANY's PROPERTY, including the TELECOMMUNICATIONS FACILITY from the PROPERTY.

3. If CITY removes the TELECOMMUNICATIONS FACILITY pursuant to this Section, COMPANY shall pay to CITY all costs associated with CITY's removal of the TELECOMMUNICATIONS FACILITY, including any storage costs, and costs to repair and restore the PROPERTY, including the LICENSED AREA, within ten (10) days after receipt by COMPANY of an itemized bill therefore.

D. Title to the TELECOMMUNICATIONS FACILITY.

Title to the TELECOMMUNICATIONS FACILITY, subject to the terms of this AGREEMENT, shall be and remain with COMPANY while the TELECOMMUNICATIONS FACILITY is installed and maintained at the PROPERTY, as long as COMPANY is in accordance and compliance with all of the terms of this AGREEMENT.

E. Title to Improvements to the PROPERTY.

COMPANY has the right to use the LICENSED AREA of the PROPERTY for the placement of the TELECOMMUNICATIONS FACILITY and does not have any title in the PROPERTY. Title to the PROPERTY, including the LICENSED AREA, shall remain with the CITY. Title to the buildings and all other structures placed in the LICENSED AREA by COMPANY and all of the equipment installed for purposes of operating and providing wireless communications services pursuant to this Agreement shall be and remain with COMPANY and shall be removed by COMPANY upon the termination or expiration of this Agreement as provided for in Section 7.

Notwithstanding any of the foregoing, improvements installed at the PROPERTY by COMPANY for provision of SERVICE shall be for the exclusive use of, and under the exclusive control of COMPANY, subject to the provisions in Section 1G and Section 7 throughout the term of this AGREEMENT.

F. No Warranties of Suitability of PROPERTY.

It is COMPANY'S election to install and maintain the TELECOMMUNICATIONS FACILITY at the PROPERTY and COMPANY does so solely at its own risk. CITY makes no representations or warranties regarding the suitability, condition or fitness of the PROPERTY for the installation, maintenance or use of the TELECOMMUNICATIONS FACILITY.

G. Right of CITY Access.

CITY reserves, and COMPANY agrees to, the right of CITY, its authorized officers, employees, agents or contractors, to enter into and access the LICENSED AREA and the PROPERTY at any time. CITY shall use their best effort to notify COMPANY prior to entering the LICENSED AREA. Under no circumstances may CITY, its authorized officers, employees, agents or contractors climb the tower located in the LICENSED AREA. CITY shall have the right to inspect the interior of the equipment shelters upon 15 days written notice to COMPANY and to the Sub-licensee whose shelter CITY desires to inspect. Without limiting the foregoing, CITY and COMPANY agree that CITY may: (1) inspect the PROPERTY, LICENSED AREA and TELECOMMUNICATIONS FACILITY for COMPANY's compliance with the terms of this AGREEMENT; (2) make repairs, alterations or additions to the PROPERTY or LICENSED AREA or maintain or use the PROPERTY or LICENSED AREA in any manner not prohibited by the terms of this AGREEMENT, all without a claim by COMPANY for any loss of occupation or use of, or any abatement of, the USE CHARGE for use of the LICENSED AREA

SECTION 2. **TERM.**

A. Initial Term.

The term of this AGREEMENT ("Initial Term") shall commence on the EFFECTIVE DATE set forth above, and shall continue for five (5) years, expiring at 11:59 p.m. on the fifth anniversary of said EFFECTIVE DATE ("EXPIRATION DATE"), unless earlier terminated as pursuant to the terms of this AGREEMENT.

B. Option to Extend.

COMPANY shall have the option to extend the term of this AGREEMENT beyond the initial term described herein for two (2) additional five (5) year periods on the same terms, covenants and conditions that are contained in this AGREEMENT; CITY shall increase the USE CHARGE during the option period in the manner as provided in Section 3B below. **COMPANY shall exercise its option to extend this AGREEMENT, if at all; by providing CITY with a written notice that COMPANY intends to exercise its option no later than one hundred and eighty (180) days prior to the EXPIRATION DATE.**

SECTION 3. USE CHARGE.

A. Charge and Payment.

1. USE CHARGE. Commencing upon the EFFECTIVE DATE, COMPANY shall pay CITY the sum of \$18,000 per year which is subject to annual adjustment as provided below ("USE CHARGE"). CITY acknowledges that COMPANY currently has one Sub-licensee, Verizon Wireless ("Verizon") as shown on attached Exhibit E entitled "DETAILED CURRENT SITE PLAN AND AREAS FOR POSSIBLE FUTURE EXPANSION". Verizon is authorized to install up to six (6) antennas and may modify, replace and change their antennas in order to address technological changes in the wireless telecommunications industry and/or to comply with governmental mandates.

2. ADDITIONAL USE CHARGE FOR THE ADDITION OF UP TO THREE (3) SUB-LICENSEES. COMPANY shall have the right to sublicense portions of the PROPERTY to up to three (3) additional FCC licensed telecommunications carriers ("Additional Sub-licensee(s)"), provided COMPANY splits any rental revenue ("Sub-licensee Rent") that COMPANY receives from the Additional Sub-licensee(s) equally with the CITY, fifty/fifty ("Additional Use Charge"). The Sub-licensee Rent shall not include shared electrical expenses and capital contributions. COMPANY shall not enter into agreements with Additional Sub-licensee(s) in which COMPANY reduces the Sub-licensee Rent in exchange for increasing the capital costs that Additional Sub-licensee(s) pay COMPANY. COMPANY shall provide CITY with a copy of their agreement with their Sub-licensee(s) which shall disclose all fees. CITY shall have the right to audit the revenue that COMPANY receives from Additional Sub-licensee(s). The Additional Use Charge shall commence on the date that COMPANY receives the Sub-licensee Rent from the Additional Sub-licensee(s) and shall continue for as long as COMPANY receives the Sub-licensee Rent from the Additional Sub-licensee(s). The Additional Use Charge shall be prorated from the commencement of their license to the following June 30 and be paid annually thereafter in the same manner as the Use Charge. The Additional Use Charge shall be increased on the same annual anniversary date as the Use Charge. The Additional Use Charge shall be paid to CITY by COMPANY and not directly from the Additional Sub-licensee(s) to CITY. COMPANY is pre-paying CITY the Additional Use Charge on an annual basis. In the event that any of the Additional Sub-licensees terminate their use of the LICENSED AREA, COMPANY shall notify CITY in writing, and within 30 days of receiving such notice, CITY shall refund to COMPANY 50% of any proportionate unearned Additional Use

Charge that was paid in advance, excluding 30 day notification period.

3. ADDITIONAL SPACE FOR ADDITIONAL SUB-LICENSEE(S).

CITY agrees to increase the size of the LICENSED AREA, to the extent reasonable, in the amount of square footage necessary to accommodate the Additional Sub-licensee(s), at no additional cost to COMPANY, except for the sharing of the Sub-licensee Rent with the CITY as outlined in section 2 above. Exhibit E identifies possible future expansion areas. COMPANY acknowledges that any expansion of the LICENSED AREA must be approved through the CITY'S use permitting process.

The USE CHARGE shall be due and payable in full on the each anniversary of the EFFECTIVE DATE ("Anniversary Date") without offset, in advance. COMPANY shall make all payments to CITY at the following address:

City of Morgan Hill
Finance Department
17555 Peak Avenue
Morgan Hill, California 95037

B. Adjustment of USE CHARGE.

1. The USE CHARGE shall be increased annually by four percent (4%). However, at the end of each 5 year term, CITY has the option to increase the USE CHARGE by the amount that the CPI has increased over the past 5 year period, compounded annually, if that amount is greater than the annual 4% increases, compounded annually, over the previous 5 year period. Within 90 days into the new 5 year term, CITY must send COMPANY notification that the USE CHARGE will be adjusted by the 5 year CPI rather than the 5 year 4% increases, along with documentation outlining their calculations. The CPI is the extent of any percentage change which occurred in the Consumer Price Index (All Items, Base 1982-84 = 100) as published by the United States Department of Labor, Bureau of Labor Statistics for All Consumers for the San Francisco-Oakland-San Jose Metropolitan area (hereinafter "CPI"). The percentage change in the CPI shall be calculated by a fraction, the denominator of which is the CPI in effect as of the calendar month fourteen (14) full months prior to the adjustment date, and the numerator of which is the CPI in effect two (2) full months prior to the adjustment date. If the Department of Labor discontinues publishing the index mentioned above, CITY may use a comparable index to calculate the percentage change in the CPI.

2. The USE CHARGE adjustment shall occur on each Anniversary Date.

SECTION 4. RIGHT TO USE APPLICABLE ONLY TO PROPERTY.

This AGREEMENT shall not be construed to permit construction, installation, maintenance or use of any TELECOMMUNICATIONS FACILITY on any property other than the TELECOMMUNICATIONS FACILITY on the LICENSED AREA.

SECTION 5. COMPLIANCE WITH APPLICABLE LAW AND APPROVALS.

A. Facility to be Constructed in Accordance with Law.

COMPANY shall construct, install, operate, maintain and remove the TELECOMMUNICATIONS FACILITY in accordance with all applicable federal, state and local governmental laws, rules and regulations now in existence or as hereafter enacted or amended. Without limiting the foregoing, COMPANY shall obtain, maintain and fully comply with any and all permits or approvals required from CITY.

B. Utility User's Tax.

COMPANY acknowledges and agrees that CITY does not currently require users of communications services such as the SERVICES to pay to CITY a utility users' tax. However, without limiting the other provisions of this SECTION, should the CITY ever institute such a tax, COMPANY agrees that COMPANY shall collect from the users of the SERVICES and remit to CITY said utility users' tax all in the manner described in, and in compliance with, the CITY'S requirements.

C. Licensing and Authorization.

COMPANY represents that it's Sub-licensee(s) is/are licensed by the Federal Communications Commission to operate the ANTENNA FACILITIES and provide the SERVICES, and COMPANY agrees to provide documentation evidencing such licensing and authorization within ten (10) days of receiving a request by CITY for such documentation. This information may also be obtained through the FCC's website: <http://wireless.fcc.gov/>.

SECTION 6. MAINTENANCE AND REPAIR.

A. COMPANY shall maintain and repair the TELECOMMUNICATIONS FACILITY, at no cost to CITY (except as specifically provided otherwise in this AGREEMENT) and to CITY's reasonable satisfaction, including repair of any and all damage to the PROPERTY or the LICENSED AREA that may result from any relocation or removal of the TELECOMMUNICATIONS FACILITY or COMPANY's exercise of any of the rights and privileges hereby granted, including, without limitation, damage to any walls, floors, ceilings, doors or electrical system in the PROPERTY or the LICENSED AREA. Upon removal of the TELECOMMUNICATIONS FACILITY and termination of this AGREEMENT, COMPANY shall restore the affected areas of the PROPERTY to at least as good condition and repair as before COMPANY's use thereof, except for ordinary wear and tear.

B. COMPANY agrees to and shall: (1) shall keep the TELECOMMUNICATIONS FACILITY and the LICENSED AREA in neat, clean and orderly condition at all times; (2) not cause rubbish, garbage or debris to accumulate or remain on or around the TELECOMMUNICATIONS FACILITY, LICENSED AREA or PROPERTY at any time; (3) not commit, suffer or allow any acts to be done at or around the TELECOMMUNICATIONS FACILITY, LICENSED AREA or PROPERTY in violation of any law, regulation, permit or rule; and, (4) not use or allow the use of the FACILITY, LICENSED AREA or PROPERTY for any illegal or immoral purpose.

C. COMPANY shall mark cabling that is exposed and not in conduit every 18 inches with identifying ownership markings and identify the antenna with similar ownership markings.

Prior to installation of new cables COMPANY shall submit plans and specifications to the CITY for approval of any proposed cable runs, said approval not to be unreasonably withheld. In addition, the COMPANY must provide a set of as-built drawings after installation that shows exactly where the cable run is, as well as other details. Cable runs shall be installed in conduit that is permitted and approved by CITY.

D. Should the COMPANY, in the CITY'S sole judgment, fail to maintain the TELECOMMUNICATIONS FACILITY and PROPERTY to the above standards, CITY shall provide COMPANY with written notice of their failure. If COMPANY does not cure the failure within ten (10) days of receiving CITY'S notice, CITY may enter upon the PROPERTY and effectuate such acts as it deems necessary to comply with such standards. Any costs incurred by the CITY will be payable by the COMPANY within ten (10) days of receipt of an itemized bill therefore.

SECTION 7. TERMINATION.

A. Termination with Cause.

1. Except as otherwise provided in this Agreement, CITY shall have the right to terminate this AGREEMENT upon thirty (30) days notice (i) if COMPANY fails to cure a material breach of any term or condition hereof, within sixty (60) days after CITY has notified COMPANY of such breach; or (ii) if said cure cannot reasonably be completed within sixty (60) days and COMPANY has not commenced curative action within said sixty (60) days and thereafter diligently (in CITY'S sole opinion) prosecuted such cure to completion; (iii) if CITY is mandated by law, a court order or decision, or the federal, state or local government to take certain actions that will cause or require the removal of the TELECOMMUNICATIONS FACILITY from the LICENSED AREA;

2. CITY acknowledges and agrees that so long as COMPANY is operating in accordance with Federal Communications Commission health and safety standards for human exposure to electromagnetic frequencies as may be amended during the term of this Agreement, COMPANY'S radio signals shall not be deemed to be a threat or danger under iii above.

B. Termination without Cause.

In the event CITY reasonably determines that it needs the LICENSED AREA for purposes solely relating to its government function, then CITY shall have the right to terminate this Agreement after the end of the five (5) year Initial Term. CITY shall give COMPANY one hundred eighty (180) days written notice of termination of this Agreement if the Agreement is terminated under the terms of this Section. If CITY terminates this Agreement pursuant to this Section, COMPANY may relocate the Cellular Facility to another location on the real property of which the LICENSED AREA forms a part, if the parties can agree on a mutually feasible alternative site.

C. Removal of Facility Upon Termination.

COMPANY shall remove the TELECOMMUNICATIONS FACILITY and repair and restore the affected areas of the LICENSED AREA and the PROPERTY prior to the expiration of this AGREEMENT. If this AGREEMENT is terminated by either party earlier than the expiration of the term, COMPANY shall remove the TELECOMMUNICATIONS FACILITY and repair and restore the affected areas of the LICENSED AREA and the PROPERTY no later than sixty (60) days after notice of termination, provided that termination due to required relocation of the TELECOMMUNICATIONS FACILITY shall be governed by Section 1.C. Removal of the TELECOMMUNICATIONS FACILITY shall be at COMPANY's sole cost and expense, except as specifically provided otherwise in this AGREEMENT. Should the COMPANY, or its successor in interest or assign, in the CITY'S sole judgment, fail to remove, repair or restore, CITY may enter upon the PROPERTY and effectuate such acts as it deems necessary to comply with such standards. Any costs incurred by the CITY will be payable by the COMPANY within ten (10) days of receipt of an itemized bill therefore.

D. Prorated Use Charge Reimbursement.

In the event of the early termination of this Agreement, CITY will reimburse COMPANY the unused portion of the USE CHARGE after proration and proper computation.

SECTION 8. NO LIABILITY.

A. Liability.

CITY, its agents, officers, employees or contractors, shall not be liable for any damage from any cause whatsoever to the TELECOMMUNICATIONS FACILITY, specifically including, without limitation, damage, if any, resulting from CITY's maintenance operations adjacent to the TELECOMMUNICATIONS FACILITY or from vandalism or unauthorized use of the TELECOMMUNICATIONS FACILITY, except as such damage is solely caused by the sole negligence or willful misconduct of CITY, its agents, officers, employees or contractors.

B. Security.

COMPANY shall take reasonable precautions against damage to or unauthorized use of the TELECOMMUNICATIONS FACILITY. CITY shall not be liable for any vandalism or other damage that may occur to the TELECOMMUNICATIONS FACILITY or in the LICENSED AREA or any unauthorized use of the TELECOMMUNICATIONS FACILITY except as provided in Section 8.A., above.

SECTION 9. PLANS AND SPECIFICATIONS; PERMITS.

A. COMPANY shall not commence installation or alteration of the TELECOMMUNICATIONS FACILITY, or any portion thereof, until CITY has approved the Plans and Specifications and COMPANY has obtained all applicable permits. Approval of Plans, Specifications and Permits shall not release COMPANY from the responsibility for, or the correction of, any errors, omissions or other mistakes that may be contained in the Plans, Specifications and/or Permits. COMPANY shall be responsible for notifying CITY and all other relevant parties immediately upon discovery of such omissions and/or errors. CITY shall have the right to inspect the TELECOMMUNICATIONS FACILITY at any time during and after installation to ensure compliance with such Plans and Specifications.

B. COMPANY agrees to perform any work in furtherance of the Plans, Specifications and Permits at COMPANY's sole expense and in accordance with and in a manner CITY is satisfied conforms to Plans, Specifications and Permits as may be approved by CITY in furtherance of this AGREEMENT.

C. COMPANY will submit required Plans and Specifications to the CITY at the address set forth for Notices in Section 15 herein, which CITY shall use for description and acceptance of the TELECOMMUNICATIONS FACILITY. COMPANY shall supply the CITY any additional information it may request before approving the Plans and Specifications in a format that is acceptable to the CITY.

D. COMPANY shall apply for and obtain all applicable permits as are required by CITY to perform the work described in this AGREEMENT and shall comply with all of the terms and conditions set forth in such permits, including, without limitation, allowing CITY personnel to inspect the installation of the TELECOMMUNICATIONS FACILITY on CITY property. COMPANY shall arrange for, obtain and bear costs of all: permits (including without limitation any fees as required by any federal, state or local law, statute, ordinance, rule or regulation); plan check and inspection fees; licenses; environmental impact reports; site preparation; surface treatment and relocation of any facilities on the LICENSED AREA, as necessary or required for health or safety in the construction or alteration of the LICENSED AREA. As a condition of this AGREEMENT, COMPANY agrees to perform the covenants and conditions contained in any permit issued or to be issued to COMPANY by CITY's Chief Engineer or his or her designees.

E. COMPANY shall not commence physical installation of the TELECOMMUNICATIONS FACILITY before approval of Plans and Specifications pursuant to Subsection 9.A, and obtaining approval of all applicable permits pursuant to Subsection 9.D. Approval of Plans and Specifications by CITY Departments shall not

release COMPANY from the responsibility for, or the correction of, any errors, omissions or other mistakes that may be contained in Plans and Specifications. COMPANY agrees to perform any work at COMPANY'S sole cost and at COMPANY'S sole expense and in accordance with and in a manner CITY is satisfied conforms to Plans and Specifications as may be approved by CITY in furtherance of this AGREEMENT.

SECTION 10. INDEMNIFICATION.

COMPANY shall protect, defend, indemnify, and hold harmless CITY, its officers, employees and agents against any claim, loss or liability arising from or related to any damage, injury or loss caused by, or resulting from, the installation, maintenance, operation or use of the TELECOMMUNICATIONS FACILITY, the provision of SERVICES, or resulting in any way from COMPANY's occupation or use of the PROPERTY or the LICENSED AREA, including, without limitation, that which is due, in whole or in part, to the willful misconduct or negligent acts (active or passive) or omissions by COMPANY, its officers, employees, consultants or agents. COMPANY's obligation to indemnify and hold harmless excludes only such claim, loss or liability that is due to the sole negligence or willful misconduct of CITY and/or its employees. All of COMPANY'S obligations under this SECTION are intended to apply to the fullest extent permitted by law and shall survive the expiration or sooner termination of this AGREEMENT.

In an action or claim against CITY in which COMPANY is defending CITY, CITY shall have the right to approve legal counsel providing CITY's defense, said approval not to be unreasonably denied.

SECTION 11. TAXES.

A. COMPANY shall pay before delinquency any and all taxes, assessments, licenses, fees and other public charges which may be levied, assessed or imposed upon any of COMPANY's interests herein, upon COMPANY's businesses, upon COMPANY for the privilege of conducting business, or upon any property of COMPANY at the PROPERTY. COMPANY is advised that this AGREEMENT may, but is not intended to, create a possessory interest in the LICENSED AREA, for which COMPANY may be subject to payment of possessory interest taxes therefore, for which CITY shall not be liable. Payment of any possessory interest tax shall not reduce in any way any charges or other fees required to be paid by COMPANY hereunder.

B. COMPANY shall not permit or suffer any liens to be imposed upon the PROPERTY or any portion thereof, without promptly discharging the same, provided, however, that COMPANY may, if it so desires, contest the legality of same following prior written notice to CITY. In the event of a contest of a lien, COMPANY shall provide a bond in an amount and in a form acceptable to CITY immediately following request therefore by CITY.

SECTION 12. INSURANCE.

A. COMPANY, at COMPANY's own expense throughout the Term of this AGREEMENT, as extended, shall comply with the insurance requirements attached hereto as Exhibit F and incorporated by reference herein. The procuring of the policy or policies of insurance required by Exhibit F shall neither be construed to limit COMPANY's liability hereunder nor to fulfill the indemnification provisions and requirements of this AGREEMENT. Notwithstanding the policy or policies of insurance, COMPANY shall be obligated for the full and total amount of any damage, injury or loss caused by its negligence or willful misconduct arising out of this AGREEMENT or COMPANY's use of the PROPERTY or the LICENSED AREA.

B. COMPANY shall deposit with CITY, on or before the EFFECTIVE DATE, certificates of insurance and the required endorsements in forms reasonably satisfactory to CITY, indicating compliance with the insurance provisions of this AGREEMENT. COMPANY shall keep the insurance in effect, and the certificates evidencing the insurance on deposit with CITY, during the Term of the AGREEMENT and as the same may be extended.

SECTION 13. FREQUENCY INTERFERENCE.

A. COMPANY will not cause, permit or allow the installation, operation, maintenance or use of the ANTENNA FACILITIES or any other equipment installed pursuant to this AGREEMENT to interfere with: (1) any existing CITY use of the PROPERTY; (2) existing CITY equipment used at the PROPERTY; (3) existing CITY communications; and/or (4) or any pre-existing third party uses of the PROPERTY or any other CITY property, including uses of communications equipment, which uses were authorized or planned by CITY prior to the execution of this Agreement. COMPANY shall immediately provide, in writing, to the CITY at the address set forth for notices in Section 15, herein, the frequencies utilized in the operation of the TELECOMMUNICATIONS FACILITY . COMPANY shall also provide the CITY, at the same address, with written notice of any intended changes in those frequencies, a description of those frequencies and the dates that those frequency changes are anticipated to occur, at least five (5) days prior to the date that those frequency changes are anticipated to occur. COMPANY shall not begin any work on the PROPERTY pursuant to this AGREEMENT until these frequencies have been approved in writing by CITY'S City Manager or any other person designated by the City Manager to make such approval for the CITY.

B. COMPANY shall ensure that its use of the TELECOMMUNICATIONS FACILITY does not interfere with any communication transmissions in the vicinity of the PROPERTY, including, if applicable and without limitation, the CITY'S public safety transmissions, police and fire communications, CITY'S internal or external communications, or communications by CITY'S tenants or contractors. COMPANY shall operate the TELECOMMUNICATIONS FACILITY in such a manner that all communications sent or received by the TELECOMMUNICATIONS FACILITY shall be separated from all CITY communications frequencies, including without limitation, CITY communications listed in the preceding sentence, by at least 1 megahertz.

C. If COMPANY's construction, installation, maintenance, operation, use or removal of the TELECOMMUNICATIONS FACILITY violates this provision; COMPANY shall immediately eliminate such violation or interference. If COMPANY fails to immediately eliminate such violation or interference, CITY may, in addition to and without compromising any other remedy available to CITY, immediately cut off power to the facility in the manner set forth in Section 14 below. CITY shall immediately provide notice to COMPANY of any interference or the exercise of CITY's shut off rights pursuant to this SECTION.

D. COMPANY shall use reasonable commercial efforts to require their Sub-licensees to operate their communications equipment in a manner that is consistent with all applicable frequencies assigned to them by the Federal Communications Commission ("FCC"), if any, and in compliance with all applicable FCC rules and regulations.

SECTION 14. EMERGENCY.

A. COMPANY understands that emergency situations may develop from time to time that require power to the TELECOMMUNICATIONS FACILITY to be shut off. Notwithstanding Section 13, COMPANY agrees that in the event that such a situation occurs, and there are frequency interferences of any nature between CITY's communication equipment and that of COMPANY, CITY shall have the right to immediately shut off any power to the TELECOMMUNICATIONS FACILITY, and any equipment of COMPANY's located on the PROPERTY, for the duration of the emergency. CITY shall notify COMPANY immediately at 1-800-788-7011 that CITY has shut off power to the TELECOMMUNICATIONS FACILITY. CITY shall make all reasonable efforts to minimize the period of time during which the power is shut off. COMPANY agrees not to hold CITY responsible or liable for and shall protect, defend, indemnify and hold CITY harmless pursuant to SECTION 10 for any damage, loss, claim or liability of any nature suffered as a result of the loss of the use of the TELECOMMUNICATIONS FACILITY or other communication facilities at PROPERTY or affected by the power outage at PROPERTY. At the CITY'S discretion, COMPANY agrees to install a master power "cut-off" switch on their equipment for the purpose of assisting CITY in such an emergency.

B. Unless otherwise specifically provided in a notice of termination of this AGREEMENT, CITY's exercise of the right to shut off any power to the TELECOMMUNICATIONS FACILITY pursuant to this SECTION is not intended to constitute a termination of this AGREEMENT by either party. COMPANY and CITY shall meet after the CITY determines that an emergency situation has ended to establish the time and manner in which power shall be restored to the TELECOMMUNICATIONS FACILITY.

C. An "emergency situation" pursuant to this Section shall be deemed to be interference with the CITY'S police, fire and/or emergency public safety communications and/or emergency problems relating to the CITY'S water tank.

SECTION 15. NOTICES.

Except as otherwise specifically set forth and allowed under this AGREEMENT, all notices herein required to be given or which may be given by either party to the other shall be deemed to have been fully given when served personally on CITY or COMPANY, or when made in writing and deposited in the United States Mail, certified mail, return receipt requested, postage prepaid and addressed as follows:

To CITY: City Manager
City of Morgan Hill
17555 Peak Avenue
Morgan Hill, CA 95037

With a copy to: Office of the City Attorney
City of Morgan Hill
17555 Peak Avenue
Morgan Hill, CA 95037

To COMPANY: Crown Castle International Corp.
E. Blake Hawk, General Counsel
2000 Corporate Drive
Canonsburg, PA 15317

With a copy to: Crown Castle GT Company LLC
9830 South 51st Street, Suite A-136
Phoenix, AZ 85044
Attention: Property Management

Either party may change its address for notice by notifying the other party in the manner provided in this Paragraph.

SECTION 16. RIGHT TO USE SUBORDINATE.

The right to use the LICENSED AREA herein granted by CITY to COMPANY, and all rights and privileges hereunder, are and shall be subordinate to the rights of CITY and to other existing tenants to use and occupy, and to any occupancy by them of, the PROPERTY and the LICENSED AREA. In the event of conflict between COMPANY's right to use the LICENSED AREA and CITY's desired use thereof after the Initial Term, CITY may require COMPANY to redesign, adjust, relocate or remove the TELECOMMUNICATIONS FACILITY. COMPANY's right to install, maintain and operate the TELECOMMUNICATIONS FACILITY, or to remove the TELECOMMUNICATIONS FACILITY, shall be subject at all times to such rights as CITY may have to require the removal or relocation of the TELECOMMUNICATIONS FACILITY at the sole cost and expense of COMPANY, under the terms stated in SECTION 1 of this AGREEMENT.

SECTION 17. ASSIGNMENT.

In no event shall the rights, duties and obligations conferred upon COMPANY pursuant to this AGREEMENT be at any time sold, transferred or assigned, except through a transfer of an interest of COMPANY in the property, or any portion thereof. Notwithstanding the foregoing, COMPANY shall have the right to assign its interests in this AGREEMENT to a wholly owned subsidiary of the COMPANY provided that all of the following conditions are met: (1) such assignment is made in conjunction with the transfer of all of COMPANY'S title to or interest in the PROPERTY to such wholly owned subsidiary, (2) such wholly owned subsidiary agrees to be bound by the terms of this AGREEMENT to the same extent as COMPANY, and (3) COMPANY shall not be relieved or released of any liability or obligations under this AGREEMENT and shall be jointly and severally liable with its wholly owned subsidiary for the performance of COMPANY'S obligations under this AGREEMENT. Notwithstanding the foregoing, COMPANY shall have the right to sublicense portions of the PROPERTY to up to three (3) additional telecommunications carriers ("Sub-licensee(s)") following approval of the proposed expansion of the LICENSED AREA as provided for in Section 9 of this Agreement and the payment of the Additional Use Charge provided for in Section 3 of this Agreement. COMPANY will provide CITY with a copy of its agreement(s) with its Sub-licensee(s) within thirty (30) days of full execution by the parties. COMPANY and/or its Sub-licensee(s) shall obtain all necessary permits prior to the commencement of construction of any new TELECOMMUNICATIONS FACILITIES.

SECTION 18. GOVERNING LAW.

This AGREEMENT shall be construed by, and in accordance with, the laws of the State of California.

SECTION 19. NO INTEREST IN PROPERTY.

Nothing herein shall be deemed to create a lease, or easement of any property, or to grant any interest in the PROPERTY, other than a real property license to use the LICENSED AREA, revocable as set forth herein.

SECTION 20. INSPECTION.

The LICENSED AREA, including keys thereto, shall be at all times under control of the CITY, whose officials, employees and agents shall have the right to enter the LICENSED AREA, and all portions thereof, for purposes of inspection (and other purposes contemplated by this AGREEMENT) at all times during the period covered by this AGREEMENT. The CITY agrees to notify COMPANY at 1-800-788-7011 of such inspection. COMPANY will provide CITY with copies of keys to COMPANY'S equipment building in the LICENSED AREA.

SECTION 21. **UTILITIES.**

COMPANY shall be solely responsible for ensuring that the LICENSED AREA has adequate electrical power and any other utility service necessary or useful to operation of the TELECOMMUNICATIONS FACILITY. CITY is not obligated to make electricity or other utilities available if there is an interruption in such service to the LICENSED AREA or to the PROPERTY. COMPANY shall not do anything, nor shall it permit anything to be done, which may interfere with the effectiveness or accessibility of the utility, heating, ventilation, diesel exhaust or air conditioning systems or portions thereof of the PROPERTY.

SECTION 22. **NOT AGENT OF CITY.**

Neither anything in this AGREEMENT nor any acts of COMPANY shall authorize COMPANY or any of its employees, agents or contractors to act as agent, contractor, joint venturer or employee of CITY for any purpose.

SECTION 23. **RESERVATION OF RIGHTS.**

COMPANY understands, acknowledges and agrees that any and all authorizations granted to COMPANY under this AGREEMENT are nonexclusive and shall remain subject to all prior and continuing regulatory and proprietary rights and powers of CITY to regulate, govern and use CITY property, as well as any existing encumbrances, deeds, covenants, restrictions, easements, dedications and other claims of title that may affect CITY property. CITY and COMPANY agree that nothing contained in, or contemplated by, this AGREEMENT is intended to confer, convey, create or grant to COMPANY any perpetual interest in any CITY property or in any of CITY's public rights of way.

SECTION 24. **CONFLICT OF INTEREST.**

COMPANY shall avoid all conflict of interest or the appearance of conflict of interest in the performance of this AGREEMENT.

SECTION 25. **MISCELLANEOUS.**

A. Whenever the singular number is used in this AGREEMENT and when required by the context, the same shall include the plural and the masculine gender shall include the feminine and neuter genders.

B. If there be more than one entity designated in, or signatory to, this AGREEMENT, the obligations hereunder imposed upon COMPANY shall be joint and several; and the term COMPANY as used herein shall refer to each and every of said signatory parties, severally as well as jointly.

C. This instrument contains all of the agreements and conditions entered into and made by and between the parties and may not be modified orally, or in any manner,

other than by an agreement in writing signed by all the parties hereto or their respective successors-in-interest.

D. Time is, and shall be, of the essence for each term and provision of this AGREEMENT.

E. Each and every term, condition, covenant and provision of this AGREEMENT is and shall be deemed to be a material part of the consideration for CITY's entry into this AGREEMENT and any breach hereof by COMPANY shall be deemed to be a material breach. Each term and provision of this AGREEMENT performable by COMPANY shall be construed to be both a covenant and a condition.

F. The headings of the several paragraphs and sections of this AGREEMENT are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope or intent of any provisions of this AGREEMENT and shall not be construed to affect in any manner the terms and provisions hereof or the interpretation or construction thereof.

G. In the event any covenant, condition or provision herein contained is held to be invalid by a court of competent jurisdiction, the invalidity of any such covenant, condition or provision shall in no way affect any other covenant, condition or provision herein contained, provided the invalidity of any such covenant, condition or provision does not materially prejudice either CITY or COMPANY in its respective rights and obligations contained in the valid covenants, conditions and provisions of this AGREEMENT.

H. All exhibits and addenda referred to herein, and any exhibits or schedules which may from time to time be referred to in any duly executed amendment hereto, are by such reference incorporated herein and shall be deemed a part of this AGREEMENT as if set forth fully herein.

I. This Agreement shall be interpreted and construed only by the contents hereof, and there shall be no presumption or standard of construction in favor of or against either party.

J. Days, unless otherwise specified, shall mean calendar days.

K. Whenever in this AGREEMENT the approval or consent of a party is required, such approval or consent must be in advance, shall be in writing, and shall be executed by a person having the express authority to grant such approval or consent unless the terms of this AGREEMENT specifically allow an oral approval or consent of a party.

L. This Agreement may be executed simultaneously in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties have executed this AGREEMENT as of the EFFECTIVE DATE.

ATTEST:

THE CITY OF MORGAN HILL

City Clerk

Date: _____

City Manager

Date: _____

APPROVED:

“COMPANY”

CROWN CASTLE GT COMPANY
LLC, a Delaware limited liability
company

Risk Manager

Date: _____

By:

Date: _____

APPROVED AS TO FORM:

Title: _____

City Attorney

Date: _____

EXHIBIT A

PROPERTY DESCRIPTION

Site Description

Location: City of Morgan Hill water tank site on Nob Hill.

Site Area:

Nob Hill Water Tank Site Map attached

EXHIBIT B

SERVICES PROVIDED BY COMPANY

COMPANY is a tower management company and sublicenses space to telecommunications carriers ("Sub-licensee(s)"). COMPANY'S Sub-licensee(s) provide(s) wireless telecommunications services in the manner permitted under its/their licensure by the Federal Communications Commission and the California Public Utilities Commission.

EXHIBIT C

DESCRIPTION OF LICENSED AREA

Telecommunication Facility

Equipment building on Nob Hill Water Tank site located as shown on the attached site plan, Exhibit C.1., measuring approximately 1,292 square feet.

Antennas and Associated Equipment

COMPANY is granted use of certain ground areas for installation, maintenance and operation of antennas and related equipment as shown and described in detail in Exhibit D. Access to the telecommunications facility, antennas and associated equipment is governed by section 1.B. of this AGREEMENT.

EXHIBIT D

TELECOMMUNICATIONS FACILITY

- ◇ **One (1) Equipment shelter measuring approximately 11'- 06" x 20'- 00";**
- ◇ **One (1) Monopole measuring approximately 41.8' in height;**
- ◇ **One (1) Generator and Base unit**

All of which are located inside the "Verizon Lease Area" shown on Exhibit C attached hereto.

This AGREEMENT applies in full to any and all existing TELECOMMUNICATIONS FACILITY, and any future TELECOMMUNICATION FACILITY applied for by COMPANY, approved by the CITY, and/or constructed on the site by COMPANY during the term of this AGREEMENT, any extensions or renewal thereto, or any hold-over period.

EXHIBIT E

DETAILED CURRENT SITE PLAN
AND
AREAS FOR POSSIBLE FUTURE EXPANSION

SEE PAGES E-1 AND E-2 ATTACHED

EXHIBIT F
INSURANCE

COMPANY shall procure and maintain for the duration of the contract, insurance against claims for injuries to persons or damages to PROPERTY, which may arise from, or in connection with, the performance of the work hereunder by COMPANY, its agents, representatives, employees or subcontractors.

A. Minimum Scope of Insurance.

Coverage shall be at least as broad as:

Insurance Services Office form number GL 0002 (Ed. 1/73) covering commercial General Liability and Insurance Services Office form number GL 0404 covering Broad Form Commercial General Liability; or insurance Services Office Commercial General Liability coverage ("occurrence" form CG 0001), including, X, C, U, (E DATE).

1. Explosion, Collapse & Underground coverage.
2. Insurance Services Office form number CA 0001 (Ed. 12/90) covering Automobile Liability, code 1 "any auto", or code 2 "owned autos" and endorsement CA 0025.
3. Workers' Compensation insurance as required by the Labor Code of the State of California and Employers Liability insurance.
4. PROPERTY Insurance against all risks of loss to any tenant improvement or betterments.

B. Minimum Limits of Insurance.

Contractor shall maintain limits no less than:

1. Commercial General Liability: \$1,000,000 per occurrence for bodily injury, personal injury, and property damage. If Commercial General Liability insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
2. Automobile Liability: \$1,000,000 combined single limit per accident for bodily injury and property damage.
3. Workers' Compensation and Employers Liability: Workers' Compensation limits as required by the Labor Code of the State of California and Employers Liability limits of \$100,000 per accident.

4. Property Insurance: Full replacement cost with no co-insurance penalty provision.

C. Deductibles and Self-Insured Retentions.

Any deductibles or self-insured retentions must be declared to, and approved by, the CITY. At the option of the CITY, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the CITY, its officials, employees, agents and contractors; or COMPANY shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses in an amount specified by the CITY.

D. Other Insurance Provisions.

The policies are to contain, or be endorsed to contain, the following provisions:

1. Commercial General Liability and Automobile Liability Coverage(s)
 - a. The City of Morgan Hill, its officers, employees, agents and contractors are to be covered as additional insured(s) as respects: Liability arising out of activities performed by or on behalf of, COMPANY; products and completed operations of COMPANY; premises owned, leased or used by COMPANY; and automobiles owned, leased, hired or borrowed by COMPANY. The coverage shall contain no special limitations on the scope of protection afforded to CITY, its officers, employees, agents and contractors.
 - b. COMPANY's insurance coverage shall be primary insurance as respects CITY, its officers, employees, agents and contractors. Any insurance or self-insurance maintained by CITY, its officers, employees, agents or contractors shall be excess of COMPANY's insurance and shall not contribute with it.
 - c. Any failure to comply with reporting provisions of the policies by COMPANY shall not affect coverage provided CITY, its officers, employees, agents, or contractors.
 - d. Coverage shall state that COMPANY's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
2. All Coverage(s)

Each insurance policy required by this AGREEMENT shall be endorsed to state that coverage shall not be suspended, voided, canceled, or reduced in limits except after thirty (30) days' prior written notice has been given to CITY.

E. Acceptability of Insurers.

Insurance is to be placed with insurers acceptable to CITY's Risk Manager.

F. Verification of Coverage.

COMPANY shall furnish CITY with certificates of insurance evidencing coverage required by this AGREEMENT. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

Proof of insurance shall be mailed to the following address or any subsequent address as may be directed in writing by the Risk Manager:

CITY OF MORGAN HILL
Risk Manager
17555 Peak Avenue
Morgan Hill, California 95112-5509

G. Subcontractors.

COMPANY shall include all subcontractors as insured(s) under its policies or shall obtain separate certificates and endorsements for each subcontractor.



CITY COUNCIL STAFF REPORT

MEETING DATE: February 1, 2006

Agenda Item #19

Submitted By:

City Manager

CONSIDERATION OF COUNCIL'S 2006 POLICIES AND GOALS

RECOMMENDED ACTION(S):

1. Review the Draft Policies and Goals; and
2. Adopt or revise as appropriate.

EXECUTIVE SUMMARY:

Earlier this year, the Council conducted its annual goal setting retreat. The Council worked through a very extensive agenda of topics and was able to develop consensus on many issues that were to be included in formal policies and goals to be adopted at a regular Council meeting.

The attached DRAFT document was prepared by the City Manager using the notes recorded on the large sheets taped to the walls during the retreat, and the Council's subsequent discussion on January 25.

The draft should be reviewed carefully to see if it is complete and if it properly reflects the Council's consensus.

If there are substantial revisions, the Council may want to ask that a "final" policies and goals document be presented at a subsequent meeting for formal adoption. Otherwise, it is recommended that the Council adopt the Policies and Goals for 2006.

FISCAL IMPACT:

None.

City of Morgan Hill

City Council's Policies and Goals for 2006

DRAFT February 1, 2006

City Council Meetings and Committee Structure

Policy: The current five policy committees will be retained with their current membership for an additional year.

Policy: Whenever policy committees submit recommendations to the City Council on significant issues, they should prepare a separate written report outlining the issue, the options considered, and the factors that led to the recommendation.

Policy: The Council will conduct three “regular” meetings per month on the 1st, 3rd and 4th Wednesdays. Each Council regular meeting will also be a joint regular meeting with the Redevelopment Agency. (Requires an amendment to the Municipal Code.)

Goal: An ad hoc task force comprised of the Mayor and Mayor Pro Tem should report in April on how the Council should manage its responsibilities for evaluating Council appointees, and on the appropriateness of a new committee of the Council to manage Council's personnel functions, monitor agenda planning, recruit citizens for committees and commissions, and focus on ethics.

Goal: By February 15, 2006, each Council policy committee will review a proposed list of outside committee assignments and their relationship to the existing policy committees, and report to the Council which members of the policy committee should be assigned which outside assignment.

Downtown

Policy: The Downtown Master Plan should be implemented as soon as possible.

Goal: By April 2006, the Community and Economic Development Committee should prepare a communication and marketing plan which will include a report to downtown stakeholders and the entire community on the accomplishments and goals for downtown improvements.

Goal: By June 2006, the Community and Economic Development Committee should report to the Council on whether implementation of the Downtown Master Plan's housing policies requires any voter approved modifications to Measure C.

Goal: By September 2006, the Community and Economic Development Committee should report to Council on possible projects to address the remaining blight in the RDA Project Area, and suggest strategies for the RDA to employ in the event the RDA plan is amended.

Outdoor Sports Complex

Policy: The 38 acres purchased for the Outdoor Sports Complex should be used to meet the community's recreation needs as outlined in the Redevelopment Plan.

Policy: Until sufficient capital and operating funds can be identified to develop the property for the community's recreation needs, the CYSA should be encouraged to continue to operate its regional tournament facility as an interim use.

Goal: Within the next year, the City should construct one or more artificial fields for use on weekdays and on weekends when not needed by the CYSA.

Goal: Within the next year, the City should construct such other improvements within the \$2.6 million budget that will support the ultimate community use of the 38 acres. Such improvements might include a permanent parking lot, lights for the artificial fields, a concession stand and restrooms, and/or fencing.

Policy: The City will encourage continued dialogue with the CYSA, other non profits, or commercial recreation vendors in order to encourage the development of facilities that will support the visitor serving segment of the local economy.

Indoor Community Recreation, Senior and Youth Center

Goal: By February 15, 2006, the Council should consider recommendations from the staff and the Public Safety and Community Services Committee on whether to authorize agreements with the YMCA to implement the “YMCA Partnership Model.”

Sustainable Budget Strategy

Policy: The City Manager’s Proposed Budget for FY 07 should not exceed an operating deficit in the General Fund of \$1.6 million as included in the most recent Five Year Forecast.

Policy: Pending the results of the Community Conversations, the Council will maintain budget discipline in order to ensure operating results no worse off than shown in the Five Year Forecast.

Goal: On May 19, 2006, the Council will conduct an all day workshop on budget issues, and will begin deliberating the consequences of the Community Conversations and their implications for major service reductions or new revenues.



CITY COUNCIL STAFF REPORT

FEBRUARY 1, 2006

Agenda Item # 20

Prepared By:

**Council Services &
Records Manager**

Submitted By:

City Manager

RECRUITMENT EFFORTS TO FILL UPCOMING VACANCIES TO BOARDS AND COMMISSIONS

RECOMMENDED ACTION(S):

1. Establish February 2006 as recruitment and March 2006 to interview/appointment to fill Vacancies on the Library, Culture & Arts Commission; and Parks & Recreation Commission;
2. Establish April 2006 as recruitment and May 2006 to interview/appointment to fill vacancies on the Architectural & Site Review Board (ARB), Mobile Home Rent Stabilization Commission, and Senior Advisory Commission; and
3. Direct staff regarding any questions the Council would like added to the applications

EXECUTIVE SUMMARY:

Terms on the Library, Culture & Arts Commission (4) and Parks & Recreation Commission (4) will expire on April 1, 2006. Terms on the ARB (2) and Mobile Home Rent Stabilization Commission (3) are due to occur on June 1, 2006. The City Council has directed that the Municipal Code be amended to include a Senior Advisory Commission and that the terms of appointment would commence on June 1, 2006 (staggered terms).

On July 6, 2005, the City Council adopted the "Fundamental Principals for a Recruitment, Interview & Appointment Process" (attached). Item 3 of the Fundamental Principals states that the application questionnaire is to focus on Council expectations. Staff is bringing the current questionnaire for Council review. Staff requests the Council indicate whether the questions, as listed in each respective board and commission application, reflect that appropriate questions. If the questions do not focus on the Council's expectation(s), staff requests the Council identify modifications, deletions and/or additional questions that should apply to the various board and commission application questionnaires.

You will note that staff has incorporated questions the Council has indicated would be helpful in the appointment process (e.g., If an incumbent, are you currently serving as chair? Next in line to serve as Chair or Vice-chair? Assigned to a special project? Applicant has read the Ethics Policy and will agree to subscribe to the Policy. By signing the application, the applicant commits to attend and participate in all meetings of Boards and Commission to which appointed, unless excused by chair). Staff would like to know if there are any other clarifying questions or statements that should be generic across all applications.

Staff is requesting that the Council: 1) establish February 2006 as recruitment and March 2006 as the month to conduct interviews/appointments to fill Vacancies on the Library, Culture & Arts Commission; and Parks & Recreation Commission; 2) establish April 2006 as recruitment and May 2006 as the month to conduct interviews/appointments to fill vacancies to the ARB, Mobile Home Rent Stabilization Commission, and Senior Advisory Commission; and 3) Direct staff regarding any questions and/or statements the Council would like to add, delete or modify to the various applications.

FISCAL IMPACT: The time preparing the staff report was accommodated by the City Clerk's operating budget.



**CITY OF MORGAN HILL
APPLICATION FOR SERVICE
BOARDS/COMMISSIONS/COMMITTEES**

**APPLICATION TO SERVE ON THE
ARCHITECTURAL REVIEW BOARD**

(In order to be considered for appointment, this application form must be fully executed and all questions answered by applicant, including those who are Incumbents. If you prefer to type your answers on the form, an electronic version will be e-mailed to you upon request.)

*Name: _____ *E-mail Address: _____

*Home address: _____ *City: _____

*Telephone: (Work) (_____) (Home) (_____) _____

Occupation: _____ Employer: _____

Number of Years lived/worked in Morgan Hill: _____ Are you a registered voter? Yes ☐ No ☐

Do you have any relatives currently employed by the city of Morgan Hill? Yes ☐ No ☐

*I consent to the release to the public of the above contact information marked with an *: Yes ☐ No ☐

QUESTIONNAIRE

(Please attach additional sheets, as necessary, to provide complete answers)

1. Please attach a resumé, or briefly describe your background, listing the qualifications and skills which you can contribute to the Architectural Review Board.

2. Have you served on any other citizen advisory commissions or committees? If so, please list and briefly explain the purpose of each committee.

3. Please describe why you would like to serve on the Architectural Review Board.

4. Please summarize your skills and experience which you believe would be important to your role as an Architectural Review Board Member.

5. If appointed, what would you like to accomplish as a member of the Architectural Review Board?
6. What do you believe to be the role of the Architectural Review Board in the review and approval of development projects?
7. If you are an incumbent seeking reappointment:
- Are you currently serving as Chair to the Committee? Yes ☐ No ☐
 - Are you next in line to serve as Chair or Vice-Chair? Yes ☐ No ☐
 - Are you assigned to a special project? Yes ☐ No ☐
 - If assigned to a special project, please identify the project:
-
8. Would you be interested in serving on any other Board, Commission or Committee? If so, please indicate:
- ☐ **ARCHITECTURAL & SITE REVIEW BOARD**
 - ☐ **BICYCLE & TRAILS ADVISORY COMMITTEE**
 - ☐ **LIBRARY, CULTURE & ARTS COMMISSION**
 - ☐ **MOBILE HOME RENT STABILIZATION COMMISSION**
 - ☐ **PARKS & RECREATION COMMISSION**
 - ☐ **PLANNING COMMISSION**
 - ☐ **SENIOR ADVISORY COMMISSION**
-

By my signature below, I acknowledge that I will be subject to the City's Conflict of Interest Code; and that I will comply with the requirement to file Statements of Economic Interest forms with the City of Morgan Hill.

By my signature below, I consent to comply with all government regulations should I be appointed to serve on a City of Morgan Hill Board, Commission or Committee.

By my signature below, I confirm that I have read the attached Ethics Policy; that I do subscribe to this Policy; that I will apply it to the specific responsibilities which I may be assigned; and that I will practice the core values set forth in this Policy in my public service for the City of Morgan Hill.

By my signature below, I commit to attend and participate in all meetings of the Board, Commission, or Committee to which I am appointed, unless excused by the Chairperson.

SIGNATURE: _____

Date: _____



**CITY OF MORGAN HILL
APPLICATION FOR SERVICE
BOARDS/COMMISSIONS/COMMITTEES**

**APPLICATION TO SERVE ON THE
BICYCLE & TRAILS ADVISORY COMMITTEE**

(In order to be considered for appointment, this application form must be fully executed and all questions answered by applicant, including those who are Incumbents. If you prefer to type your answers on the form, an electronic version will be e-mailed to you upon request.)

*Name: _____ *E-mail Address: _____

*Home address: _____ *City: _____

*Telephone: (Work) (_____) (Home) (_____) _____

Occupation: _____ Employer: _____

Number of Years lived/worked in Morgan Hill: _____ Are you a registered voter? Yes ☐ No ☐

Do you have any relatives currently employed by the city of Morgan Hill? Yes ☐ No ☐

*I consent to the release to the public of the above contact information marked with an *: Yes ☐ No ☐

QUESTIONNAIRE

(Please attach additional sheets, as necessary, to provide complete answers)

1. Please attach a resumé, or briefly describe your background, listing the qualifications and skills which you can contribute to the Bicycle & Trails Advisory Committee.

2. Have you served on any other citizen advisory commissions or committees? If so, please list and briefly explain the purpose of each committee.

3. Please describe why you would like to serve on the Bicycle & Trails Advisory Committee.

4. Please summarize your skills and experience which you believe would be important to your role as a Bicycle & Trails Advisory Committee member.

5. If appointed, what would you like to accomplish as a member of the Bicycle & Trails Advisory Committee?

6. If you are an incumbent seeking reappointment:

- | | | |
|--|------------------------------|-----------------------------|
| • Are you currently serving as Chair to the Committee? | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| • Are you next in line to serve as Chair or Vice-Chair? | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| • Are you assigned to a special project? | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| • If assigned to a special project, please identify the project: | | |
-

7. Would you be interested in serving on any other Board, Commission or Committee? If so, please indicate:

- ☐ **ARCHITECTURAL & SITE REVIEW BOARD**
 - ☐ **BICYCLE & TRAILS ADVISORY COMMITTEE**
 - ☐ **LIBRARY, CULTURE & ARTS COMMISSION**
 - ☐ **MOBILE HOME RENT STABILIZATION COMMISSION**
 - ☐ **PARKS & RECREATION COMMISSION**
 - ☐ **PLANNING COMMISSION**
 - ☐ **SENIOR ADVISORY COMMISSION**
-

By my signature below, I acknowledge that I will be subject to the City's Conflict of Interest Code; and that I will comply with the requirement to file Statements of Economic Interest forms with the City of Morgan Hill.

By my signature below, I consent to comply with all government regulations should I be appointed to serve on a City of Morgan Hill Board, Commission or Committee.

By my signature below, I confirm that I have read the attached Ethics Policy; that I do subscribe to this Policy; that I will apply it to the specific responsibilities which I may be assigned; and that I will practice the core values set forth in this Policy in my public service for the City of Morgan Hill.

By my signature below, I commit to attend and participate in all meetings of the Board, Commission, or Committee to which I am appointed, unless excused by the Chairperson.

SIGNATURE: _____

Date: _____



**CITY OF MORGAN HILL
APPLICATION FOR SERVICE
BOARDS/COMMISSIONS/COMMITTEES**

**APPLICATION TO SERVE ON THE
LIBRARY, CULTURE & ARTS COMMISSION**

(In order to be considered for appointment, this application form must be fully executed and all questions answered by applicant, including those who are Incumbents. If you prefer to type your answers on the form, an electronic version will be e-mailed to you upon request.)

*Name: _____ *E-mail Address: _____

*Home address: _____ *City: _____

*Telephone: (Work) (_____) (Home) (_____) _____

Occupation: _____ Employer: _____

Number of Years lived/worked in Morgan Hill: _____ Are you a registered voter? Yes ☐ No ☐

Do you have any relatives currently employed by the city of Morgan Hill? Yes ☐ No ☐

*I consent to the release to the public of the above contact information marked with an *: Yes ☐ No ☐

QUESTIONNAIRE

(Please attach additional sheets, as necessary, to provide complete answers)

1. Please attach a resumé, or briefly describe your background, listing the qualifications and skills which you can contribute to the Library, Culture & Arts Commission.

2. Have you served on any other citizen advisory commissions or committees? If so, please list and briefly explain the purpose of each committee.

3. Please describe why you would like to serve on the Library, Culture & Arts Commission.

4. Please summarize your skills and experience which you believe would be important to your role as a Library, Culture & Arts Commissioner.

5. What is your experience with cultural facilities and/or public art?

6. If appointed, what would you like to accomplish as a member of the Library, Culture & Arts Commission?
7. What, in your opinion, are the greatest challenges facing the building of the new library?
8. What, in your opinion, are the greatest challenges facing the arts and cultural events/programs in our community?
9. If you are an incumbent seeking reappointment:
- Are you currently serving as Chair to the Committee? Yes ☐ No ☐
 - Are you next in line to serve as Chair or Vice-Chair? Yes ☐ No ☐
 - Are you assigned to a special project? Yes ☐ No ☐
 - If assigned to a special project, please identify the project:
-
10. Would you be interested in serving on any other Board, Commission or Committee? If so, please indicate:
- ☐ ARCHITECTURAL & SITE REVIEW BOARD
 - ☐ BICYCLE & TRAILS ADVISORY COMMITTEE
 - ☐ LIBRARY, CULTURE & ARTS COMMISSION
 - ☐ MOBILE HOME RENT STABILIZATION COMMISSION
 - ☐ PARKS & RECREATION COMMISSION
 - ☐ PLANNING COMMISSION
 - ☐ SENIOR ADVISORY COMMISSION
-

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By my signature below, I commit to attend and participate in all meetings of the Board, Commission, or Committee to which I am appointed, unless excused by the Chairperson.

SIGNATURE: _____

Date: _____



**CITY OF MORGAN HILL
APPLICATION FOR SERVICE
BOARDS/COMMISSIONS/COMMITTEES**

**APPLICATION TO SERVE ON THE
MOBILE HOME RENT COMMISSION**

(In order to be considered for appointment, this application form must be fully executed and all questions answered by applicant, including those who are Incumbents. If you prefer to type your answers on the form, an electronic version will be e-mailed to you upon request.)

*Name: _____ *E-mail Address: _____

*Home address: _____ *City: _____

*Telephone: (Work) (_____) (Home) (_____) _____

Occupation: _____ Employer: _____

Number of Years lived/worked in Morgan Hill: _____ Are you a registered voter? Yes ☐ No ☐

Do you have any relatives currently employed by the city of Morgan Hill? Yes ☐ No ☐

*I consent to the release to the public of the above contact information marked with an *: Yes ☐ No ☐

QUESTIONNAIRE

(Please attach additional sheets, as necessary, to provide complete answers)

1. Please attach a resumé, or briefly describe your background, listing the qualifications and skills which you can contribute to the Mobile Home Rent Commission.

2. Have you served on any other citizen advisory commissions or committees? If so, please list and briefly explain the purpose of each committee.

3. Please describe why you would like to serve on the Mobile Home Rent Commission.

4. Please summarize your skills and experience which you believe would be important to your role as a Mobile Home Rent Commissioner.

5. If appointed, what would you like to accomplish as a member of the Mobile Home Rent Commission?
6. Over the next two years, what do you see as the major issues facing mobile home owners living in parks and mobile home park owners, respectively?
8. If you are an incumbent seeking reappointment:
- Are you currently serving as Chair to the Committee? Yes ☐ No ☐
 - Are you next in line to serve as Chair or Vice-Chair? Yes ☐ No ☐
 - Are you assigned to a special project? Yes ☐ No ☐
 - If assigned to a special project, please identify the project:
-
9. Would you be interested in serving on any other Board, Commission or Committee? If so, please indicate:
- ☐ ARCHITECTURAL & SITE REVIEW BOARD
 - ☐ BICYCLE & TRAILS ADVISORY COMMITTEE
 - ☐ LIBRARY, CULTURE & ARTS COMMISSION
 - ☐ MOBILE HOME RENT STABILIZATION COMMISSION
 - ☐ PARKS & RECREATION COMMISSION
 - ☐ PLANNING COMMISSION
 - ☐ SENIOR ADVISORY COMMISSION
-

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By my signature below, I commit to attend and participate in all meetings of the Board, Commission, or Committee to which I am appointed, unless excused by the Chairperson.

SIGNATURE: _____

Date: _____



**CITY OF MORGAN HILL
APPLICATION FOR SERVICE
BOARDS/COMMISSIONS/COMMITTEES**

**APPLICATION TO SERVE ON THE
PARKS & RECREATION COMMISSION**

(In order to be considered for appointment, this application form must be fully executed and all questions answered by applicant, including those who are Incumbents. If you prefer to type your answers on the form, an electronic version will be e-mailed to you upon request.)

*Name: _____ *E-mail Address: _____

*Home address: _____ *City: _____

*Telephone: (Work) (_____) (Home) (_____) _____

Occupation: _____ Employer: _____

Number of Years lived/worked in Morgan Hill: _____ Are you a registered voter? Yes ☐ No ☐

Do you have any relatives currently employed by the city of Morgan Hill? Yes ☐ No ☐

*I consent to the release to the public of the above contact information marked with an *: Yes ☐ No ☐

QUESTIONNAIRE

(Please attach additional sheets, as necessary, to provide complete answers)

1. Please attach a resumé, or briefly describe your background, listing the qualifications and skills which you can contribute to the Parks & Recreation Commission.

2. Have you served on any other citizen advisory commissions or committees? If so, please list and briefly explain the purpose of each committee.

3. Please describe why you would like to serve on the Parks & Recreation Commission.

4. Please summarize your skills and experience which you believe would be important to your role as a Parks & Recreation Commissioner.

5. If appointed, what would you like to accomplish as a member of the Parks & Recreation Commission, and what direction would you like to see the Recreation Division take?
6. Why are municipal recreation services important to you?
7. How have you kept apprised of the many new public facility projects the Parks and Recreation Commission is working on??
8. If you are an incumbent seeking reappointment:
- Are you currently serving as Chair to the Committee? Yes ☐ No ☐
 - Are you next in line to serve as Chair or Vice-Chair? Yes ☐ No ☐
 - Are you assigned to a special project? Yes ☐ No ☐
 - If assigned to a special project, please identify the project:
-
9. Would you be interested in serving on any other Board, Commission or Committee? If so, please indicate:
- ☐ **ARCHITECTURAL & SITE REVIEW BOARD**
 - ☐ **BICYCLE & TRAILS ADVISORY COMMITTEE**
 - ☐ **LIBRARY, CULTURE & ARTS COMMISSION**
 - ☐ **MOBILE HOME RENT STABILIZATION COMMISSION**
 - ☐ **PARKS & RECREATION COMMISSION**
 - ☐ **PLANNING COMMISSION**
 - ☐ **SENIOR ADVISORY COMMISSION**

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By my signature below, I commit to attend and participate in all meetings of the Board, Commission, or Committee to which I am appointed, unless excused by the Chairperson.

SIGNATURE: _____

Date: _____



**CITY OF MORGAN HILL
APPLICATION FOR SERVICE
BOARDS/COMMISSIONS/COMMITTEES**

**APPLICATION TO SERVE ON THE
PLANNING COMMISSION**

(In order to be considered for appointment, this application form must be fully executed and all questions answered by applicant, including those who are Incumbents. If you prefer to type your answers on the form, an electronic version will be e-mailed to you upon request.)

*Name: _____ *E-mail Address: _____

*Home address: _____ *City: _____

*Telephone: (Work) (_____) (Home) (_____) _____

Occupation: _____ Employer: _____

Number of Years lived/worked in Morgan Hill: _____ Are you a registered voter? Yes ☐ No ☐

Do you have any relatives currently employed by the city of Morgan Hill? Yes ☐ No ☐

*I consent to the release to the public of the above contact information marked with an *: Yes ☐ No ☐

QUESTIONNAIRE

(Please attach additional sheets, as necessary, to provide complete answers)

1. Please attach a resumé, or briefly describe your background, listing the qualifications and skills which you can contribute to the Planning Commission.

2. Have you served on any other citizen advisory commissions or committees? If so, please list and briefly explain the purpose of each committee.

3. Please describe why you would like to serve on the Planning Commission.

4. Please summarize your skills and experience which you believe would be important to your role as a Planning Commissioner.

5. If appointed, what would you like to accomplish as a member of the Planning Commission?

6. What do you believe to be the role of the Planning Commission in the review and approval of development projects?

7. Please share your thoughts about the way the City has grown over the last five years, and your vision of the City in the year 2020.

8. What has the City of Morgan Hill done right to plan for the community? What does the City need to consider or improve?

9. If you are an incumbent seeking reappointment:

- | | | |
|--|------------------------------|-----------------------------|
| • Are you currently serving as Chair to the Committee? | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| • Are you next in line to serve as Chair or Vice-Chair? | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| • Are you assigned to a special project? | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| • If assigned to a special project, please identify the project: | | |

9. Would you be interested in serving on any other Board, Commission or Committee? If so, please indicate:

- ☐ **ARCHITECTURAL & SITE REVIEW BOARD**
- ☐ **BICYCLE & TRAILS ADVISORY COMMITTEE**
- ☐ **LIBRARY, CULTURE & ARTS COMMISSION**
- ☐ **MOBILE HOME RENT STABILIZATION COMMISSION**
- ☐ **PARKS & RECREATION COMMISSION**
- ☐ **PLANNING COMMISSION**
- ☐ **SENIOR ADVISORY COMMISSION**

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By my signature below, I commit to attend and participate in all meetings of the Board, Commission, or Committee to which I am appointed, unless excused by the Chairperson.

SIGNATURE: _____

Date: _____



**CITY OF MORGAN HILL
APPLICATION FOR SERVICE
BOARDS/COMMISSIONS/COMMITTEES**

**APPLICATION TO SERVE ON THE
SENIOR ADVISORY COMMISSION**

(In order to be considered for appointment, this application form must be fully executed and all questions answered by applicant, including those who are Incumbents. If you prefer to type your answers on the form, an electronic version will be e-mailed to you upon request.)

*Name: _____ *E-mail Address: _____

*Home address: _____ *City: _____

*Telephone: (Work) (_____) (Home) (_____) _____

Occupation: _____ Employer: _____

Number of Years lived/worked in Morgan Hill: _____ Are you a registered voter? Yes ☐ No ☐

Do you have any relatives currently employed by the city of Morgan Hill? Yes ☐ No ☐

*I consent to the release to the public of the above contact information marked with an *: Yes ☐ No ☐

QUESTIONNAIRE

(Please attach additional sheets, as necessary, to provide complete answers)

1. Please attach a resumé, or briefly describe your background, listing the qualifications and skills which you can contribute to the Senior Advisory Commission.

2. Have you served on any other citizen advisory commissions or committees? If so, please list and briefly explain the purpose of each committee.

3. Please describe why you would like to serve on the Senior Advisory Commission.

4. Please summarize your skills and experience which you believe would be important to your role as a Senior Advisory Commissioner.

5. If appointed, what would you like to accomplish as a member of the Senior Advisory Commission?

6. If you are an incumbent seeking reappointment:

- | | | |
|--|------------------------------|-----------------------------|
| • Are you currently serving as Chair to the Committee? | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| • Are you next in line to serve as Chair or Vice-Chair? | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| • Are you assigned to a special project? | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| • If assigned to a special project, please identify the project: | | |
-

7. Would you be interested in serving on any other Board, Commission or Committee? If so, please indicate:

- ☐ **ARCHITECTURAL & SITE REVIEW BOARD**
 - ☐ **BICYCLE & TRAILS ADVISORY COMMITTEE**
 - ☐ **LIBRARY, CULTURE & ARTS COMMISSION**
 - ☐ **MOBILE HOME RENT STABILIZATION COMMISSION**
 - ☐ **PARKS & RECREATION COMMISSION**
 - ☐ **PLANNING COMMISSION**
 - ☐ **SENIOR ADVISORY COMMISSION**
-

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SIGNATURE: _____

Date: _____